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FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

Government  
Publications

CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTÉRESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

COMPTE RENDU TEXTUEL

(unrevised and unofficial)

(non révisé et non officiel)



Ottawa  
April 2 and 3, 1985

Ottawa  
Les 2 et 3 avril 1985

Canadian Intergovernmental Conference Secretariat • Secrétariat des conférences intergouvernementales canadiennes



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--- 9:00 A.M./9h00

THE RIGHT HONOURABLE PRIME MINISTER BRIAN

MULRONEY (CHAIRMAN/PRESIDENT): May we begin please. Voulez-vous vous asseoir, s'il vous plait. Bienvenue, mesdames et messieurs, good morning ladies and gentlemen and I am very pleased to call this Conference to order. At First Ministers' Conferences on Aboriginal Constitutional Matters it has been the custom to open with a prayer and I now invite Elder Eric Anoee to lead us, please, in an opening prayer.

MR. ERIC ANOEE (Elder, Inuit Committee on National Issues):

(Speaks in Native tongue)

MR. ZEBEEDEE NUNGAK (Co-chairperson, Inuit Committee on National Issues): On behalf of the Inuit of Canada, Elder Sam-Willie Annahatak would like to make this presentation to the Prime Minister of Canada on the occasion of the Third Constitutional Conference on Aboriginal Affairs. This is a gift symbolic of our hope that our rights will be dealt with squarely and entrenched in the Constitution where they belong. We express the wish in presenting this to you that you will use it well and wisely. And on behalf of the Inuit we present you this tool for this Conference and express the hope that some agreement is possible.

THE CHAIRMAN: Zebeedee, I thank you for the gift and I hope that the Conference will do honour to the aspirations of the Native Peoples represented here.

I note that Premier Peckford is absent because today is polling day in Newfoundland but I have been informed



that the Honourable Robert Aylward, Minister of Rural Agricultural and Northern Development will join us tomorrow. Apart from myself, there are two novices, other novices at the table, and on your behalf I would like to extend a very warm welcome to this process to Premier Frank Miller of Ontario and Mr. Willard Phelps who was recently chosen leader of the Government of Yukon.

Colleagues and friends, it is an honour and an important duty for me to participate with you in this unique undertaking, this Conference of First Ministers' on Constitutional Matters relating to the Inuit, the Indians, and the Metis of Canada. Although many of you have attended the two previous Conferences, this is my first. As such, I want to set out, if I may, my objectives for what I consider to be an essential undertaking for our federation.

It is not my intention, nor that of the new federal government, simply to follow the course which has been charted before. I believe there is new ground which can be explored, and I believe as well there are new understandings which can be reached.

In these two days of meetings I wish to affirm and demonstrate the government's commitment to the further identification, definition and Constitutional protection of the rights of the Aboriginal Peoples. I look to the goodwill of all participants to produce tangible progress by the time we adjourn tomorrow. I am going to on behalf of the government, Mr. Crosbie and Mr. Crombie who have worked long and hard at this process, I am going to be making specific commitments on behalf of my colleagues in the federal government. I look for specific commitments from the provincial and territorial

governments and from the representatives of the Aboriginal Peoples.

Given Canada's longstanding traditions of fairness, tolerance and understanding, I know that all Canadians expect this of me and I know they expect it of you.

My objective at the Regina Conference on the Economy, and again at the National Economic Conference last weekend, was to encourage the key actors in the Canadian economy to recast their dialogue in terms that made issues into shared concerns and not jurisdictional disputes. We have lived a full lifetime of jurisdictional disputes. It is time now to shoulder these concerns together. And so no one should be surprised that one of my objectives for this Conference is to encourage all participants, including the federal government, to accept their share of responsibility in a search for new understandings. I think you know of my commitment to national reconciliation. I believe you know of my determination to breathe new life and restore harmony to federal/provincial relations. We have seen the advantages of moving to consensus and the hope that it offers us.

To all participants, I want to say that with the imperfections of any government including the federal government, that we nonetheless will demonstrate our new approach at this Conference by not surprising you with initiatives for which you are not prepared nor adopting pressure tactics to try to move into the system with which you are not agreed. We are going to be up front and open.

To the Aboriginal leaders, I want to say that, having been a labour negotiator myself, I know what it means to be sitting on one side of the table and looking at pretty

powerful interests on the other side. But that is not the situation today. We are here together to try to come to grips with problems common to all of us.

Il importe que nous envisagions de la même façon le processus qui nous a amenés ici aujourd'hui. En 1982, après des années d'efforts futiles, les Indiens, les Inuit et les Métis ont finalement convaincu les gouvernements, dans le vif du débat constitutionnel, de régler certaines questions qui touchaient profondément leur avenir propre et celui du Canada tout entier.

Vous savez, je me trouve ici non pas seulement à titre de Premier ministre du Canada, mais aussi en tant que député de la circonscription électorale de Manicouagan qui est une des plus vastes du Canada et où habitent des Cris, des Montagnais, des Naskapis, des Hurons et des Inuit. Je suis fier du fait d'être en mesure de vous dire que c'est un chef montagnais, Gaston McKenzie, qui a appuyé ma candidature à l'investiture du Parti progressiste-conservateur dans le comté de Manicouagan.

Je connais bien la situation des autochtones et les difficultés auxquelles ils font face, autant dans Manicouagan que partout ailleurs au pays. En tant que Premier ministre, il est de mon devoir de prendre les devants, de susciter des changements. C'est pourquoi j'entends ne ménager aucun effort pour mettre en place les mécanismes grâce auxquels les changements essentiels pourront s'opérer. C'est d'ailleurs pour cela que nous sommes engagés dans ce processus qui peut être lent, tortueux et même frustrant. Pourtant, nous ne pouvons pas



l'abandonner simplement parce que la tâche paraît insurmontable ou que des acquis pourraient être remis en question. Au contraire, nous devons redoubler d'ardeur.

En 1982, lorsque trois articles visant expressément les peuples autochtones ont été inclus dans la Loi constitutionnelle, le Canada se lançait dans une vaste entreprise, celle de procéder à des changements fondamentaux, substantiels et positifs en ce qui a trait à la situation des autochtones. En 1983, les gouvernements ont convenu d'un accord constitutionnel qui, notamment, accordait une protection constitutionnelle aux accords portant règlement de revendications territoriales et engageait les gouvernements, avant que ne soit apportée à la Constitution quelque modification touchant les peuples autochtones, à tenir une conférence à laquelle ceux-ci pourraient participer.

Although the 1984 Conference did not produce the kinds of tangible results hoped for, new foundations have since been established during the course of the preparatory meetings with Mr. Crosbie and Mr. Crombie. I have followed these meetings with interest and noted the positive will demonstrated by all participants to get the job done, to put forward new ideas, to challenge existing concepts, to draw upon specific experiences, and to move toward a consensus.

Ontario, Manitoba and Saskatchewan have made important contributions to moving discussions forward on all elements of our endeavour. I note as well the significant contribution of the governments of Nova Scotia and New Brunswick to the discussions on self-government for Aboriginal Peoples and to those on the clarification of existing provisions relating to equality between Aboriginal men and women. Alberta has brought to these discussions its very useful experience based on a relationship with the Metis which remains unique in Canada, under the provincial Metis Betterment Act.

I understand that British Columbia, Newfoundland and Prince Edward Island, among others, have stressed the importance of a full and open exchange of views on Aboriginal matters, and I welcome that very much. I was pleased to learn that the National Assembly of Quebec recently adopted a resolution recognizing the special rights of Aboriginal Peoples. The two territories have offered us their special insights and inspiration as they explore changes in their political institutions.

For their part, the representatives of the Aboriginal Peoples have articulated their concerns in a frank

and open manner and have contributed constructively in a very significant way to the preparations that have preceded this conference.

And so it is no surprise to me that many participants have come to the table expressing a willingness to consider Constitutional provisions relating to self-government. The goodwill and momentum which has been generated over the last few months I am satisfied will sustain us in the difficult deliberations ahead and I hope will lead to concrete results.

The Aboriginal leaders present here today and their colleagues at the tribal council, band, community or association level, together represent the descendants of the original peoples of Canada. They have preserved and maintained their cultural identity through many years of adversity. This is part of our national heritage, part of how we define ourselves as a society, and it is something to be celebrated, not to be ignored.

There is however, colleagues, another side to this heritage of tenacity and perseverance. In describing the current situation, I could read to you something that you know well, the litany of social indicators on the disparities suffered by Aboriginal Peoples in unemployment, in lives of despair ending in alcoholism or suicide, the waste in human potential caused by inadequate educational facilities and substandard housing. But I don't want to trade in sorrow. We are familiar enough, all of us without exception, with the statistics and I know some of you live with them on a day-to-day basis and many of you see them reflected in the eyes of your children.



These social indicators are symptoms of an underlying problem which we must, on an urgent basis, address. They are social indicators which we here in this room can begin the process of changing.

There are those who would say -- perhaps with generosity -- that the answer lies in more welfare, more social workers, more programs, but clearly history has shown that that is the way to dependency and misery. As George Manuel, the Indian leader whose work has contributed greatly to our being here, said, "Indians are not seeking the best welfare system in the world." That's not one of the objectives of the Indian population.

So, if more welfare is not the answer, then what is? I say that the answer lies in Aboriginal Peoples assuming more responsibility for their own affairs, setting their own priorities, and determining their own programs. As Zebedee Nungak of the Inuit Committee on National Issues said at the ministerial meeting held last month in Toronto -- and I ask you to remember this, not just because he gave me this although I appreciate it. Mr. Nungak said, "We are here to do some constructive damage to the status quo in Canada on behalf of Aboriginal Peoples." I ask you to think about that, because it was said in good faith in a positive manner and I took it in that light. I invite you to reflect upon it in the same way. We are here to chart a new course and to set out on it.

I have come across Hugh Brody's book called Maps and Dreams, about the Beaver Indian People in northern British Columbia. It is the title which sticks in my mind

because that is very much what this is all about today: maps and dreams. Maps to find our way to Canada's twenty-first century, and dreams to guide and sustain us.

The Canada we are building for the twenty-first century must have room for self-governing Aboriginal Peoples. Where our ongoing arrangements have failed to leave room for Aboriginal Peoples to control their own affairs, we must now find room. Canada is big enough for all of us. We need to, I think, I believe, reconsider and rethink our understanding of Canada, so that the Aboriginal Peoples too will have their own space in their own time.

Different forms of self-government already exist in Canada and most Canadians take them for granted. Apart from electing their federal and provincial governments, Canadians run their own school boards, village and town councils, and you name it. Canadians have also created regional governments when urban centres become too complex to be administered by a single council.

In Canada, we assume that we can participate in the charting of our destinies, in determining how we are to be represented, in holding our representatives accountable. But the Indians, the Inuit and Metis Peoples do not feel they have the same degree of participation.

In Canada, if you want to get a real good argument going, all flags flying in this country--including some people around this table--in Canada, we assume that our cultural and our linguistic backgrounds and traditions will be respected, even cherished and enhanced. Let somebody put a finger on them and see what happens. But Indian, Inuit and Metis peoples do not have this assurance, but not at all, nor the power to determine their own cultural development. In fact, there were times when aspects of their cultures were subject to legal sanctions and suppression.

The key to change is self-government for aboriginal peoples within the Canadian federation. We Canadians are a cautious people and self-government is a term which is worrisome to many of us. Self-government is not something that I fear. It is not an end in itself, but rather a means to reach common goals. It is the vehicle, not the destination. The challenge and satisfaction is in the journey itself.

The federal government's approach to self-government for aboriginal peoples takes account of those realities, of the creativity that Canadians have always shown in developing their own democratic institutions. It is through self-government that a people can maintain its sense of pride and self-worth, and only through that that a people can maintain its sense of pride and self-worth which is necessary for happy and productive lives.

As a Canadian and as Prime Minister, I fully recognize and agree with the emphasis that the aboriginal peoples place on having their special rights inserted into the highest law of the land, protected--as we all want ours--from arbitrary



legislative action. Constitutional protection for the principle of self-government is an overriding objective because it is the constitutional manifestation of a relationship, an unbreakable social contract between aboriginal peoples and their governments.

J'admets, collègues, mais volontiers, que le fait de modifier la Constitution en ce sens ne peut à lui seul régler les problèmes socio-économiques, ni réduire les disparités ni, encore, corriger les injustices. Il faut donc, en même temps que nous nous employons à modifier la Constitution pour y définir les droits des autochtones, travailler également à améliorer leurs conditions économiques et sociales. Des mesures doivent être prises sur les deux fronts, et quoique distinctes, ces deux entreprises se renforcent mutuellement.

Le nouveau gouvernement fédéral a déjà pris des initiatives visant à accroître l'autonomie gouvernementale et le bien-être des peuples autochtones et, pour ce faire, il a sollicité la collaboration, la participation et la contribution des provinces, des territoires et des autochtones eux-mêmes. Ce ne sont là que les premiers pas vers la réalisation de grands rêves. Mais ce sont aussi des signes révélateurs. Nous avons déjà affiché nos couleurs.

Depuis septembre, mon collègue, monsieur Crosbie, s'est employé à préparer avec le plus grand soin la conférence qui nous réunit aujourd'hui. C'est ainsi qu'au cours des derniers mois il a soumis diverses propositions constitutionnelles aux participants et examiné avec eux certaines possibilités de compromis.

Mon collègue David Crombie, a lui aussi pris un certain nombre d'initiatives importantes. Déjà, il a clairement indiqué l'intention du gouvernement de favoriser pour les Territoires du Nord-Ouest une évolution politique qui

mènera à la création du Nunavut dans l'est de l'Arctique et à la mise sur pied dans l'ouest d'une administration qui assurera protection et participation aux peuples autochtones. Il a aussi entrepris d'examiner divers modèles d'autonomie gouvernementale ainsi que les changements à apporter à nos politiques et lois pour les appliquer ou les améliorer. Il envisage également, je pense, à son grand crédit, la formule du financement global qui donnerait aux gouvernements indiens plus de latitude pour fixer leurs priorités et élaborer leurs propres programmes.

Il a amorcé également, enfin, l'examen du Traité numéro 8 qui touche les bandes indiennes vivant pour la plupart dans le nord de l'Alberta, de la Saskatchewan et de la Colombie-Britannique, afin de régler certains griefs et d'ouvrir la voie à de saines relations pour l'avenir. Cette démarche de monsieur Crosbie devrait, je pense, nous servir de guide dans nos efforts pour établir des rapports positifs et constructifs avec d'autres collectivités autochtones. Le Ministre a également entrepris une étude de la politique de règlement des revendications territoriales afin de voir quelles autres voies pourraient être suivies. Enfin, il a engagé des discussions avec les provinces au sujet des problèmes que connaissent les autochtones vivant en milieu urbain.

Il s'agit là de démarches essentielles qui sous-tendent nos discussions constitutionnelles et les assoient sur une base concrète.



I think, colleagues, that Canadians have rightfully objected to excessive intrusion of government into their lives. Governmental control is resented by all of us. Yet the most regulated, controlled and intruded upon in Canada are the aboriginal peoples. One of the changes that must be made in the current state of affairs is the removal of these excessive interventions. The alternative, what is it? If it is not one, it must in some measure be the other. The alternative--which is our main agenda item--has to be self-government.

Governments require a better grasp of aboriginal peoples' needs and aspirations. If they demonstrate sufficient creativity and flexibility, then all of Canada will benefit from Aboriginal Peoples who are secure in their own cultures and full partners in Canadian society.

Aboriginal Peoples need a better understanding of the constraints faced by governments, one which takes into account the realities of our current economic environment.

Canada's Aboriginal Peoples face, I believe, difficult choices in the years to come. They will have to decide what mix of traditional and modern life they find appropriate to meet their needs. These are the trade-offs that they will have to make as they seek to define their rightful place in Canadian society. But they alone can strike that critical balance between old and new.

This is a challenging prospect for Aboriginal Peoples and for the rest of us. And if this prospect is to become a reality, it will call for an act of faith and imagination by all of us around this table today. The

Aboriginal Peoples will have to be able to count on the continuing understanding and support of governments as they move toward an even greater control of their lives and circumstances. We all look forward to a new sharing of responsibility. We all look forward to a new life for the Aboriginal Peoples of Canada, one in which the opportunity to release creativity and entrepreneurship is fostered and enhanced.

But this cannot be achieved at the expense of cultural identity. I see the Aboriginal Peoples making their special contribution to Canadian society as Indians, Inuit and Metis. There is no need to sever one's roots.

For those who wish to remain within their communities, that choice should never preclude their ability to lead a rewarding life. The Indian reserve, the Metis community and the Inuit village must remain places of retreat and spiritual renewal for those who opt to live in an environment away from the one into which they were born. There are Inuit on Arctic drilling rigs, Metis farmers on the prairies and Indian lawyers in southern cities. I know Billy Diamond of the James Bay Cree who heads a school board and an airline and Mary Simmon who spoke out so eloquently for Inuit interests at the National Economic Conference last weekend.

As Mr. Richard Nerysoo pointed out at Regina last February, in reference to the activity of the Northwest Territories on natural resources development, it is not a case of newer technologies destroying older ways, but rather of the new co-existing with the old.

Si nous voulons que les autochtones reprennent confiance en eux-mêmes, il importe que les gouvernements et les autochtones reconnaissent leurs responsabilités mutuelles et leur communauté d'objectifs. C'est là une condition essentielle de la lutte contre la pauvreté et la dépendance. Les Indiens, les Inuit et les Métis pourront ainsi participer pleinement au développement de l'économie nationale, tout en continuant d'occuper leur place particulière dans la société canadienne.

Les défis auxquels nous aurons à faire face au cours de la Conférence qui s'ouvre aujourd'hui mettront à l'épreuve le jugement et l'ouverture d'esprit des chefs politiques que nous sommes. Ces défis nous donneront aussi l'occasion de démontrer notre capacité de traduire notre volonté politique en gestes concrets.

Comme vous le savez, la Loi constitutionnelle de 1982 et l'Accord de 1983 prévoient que de 1982 à 1987 quatre conférences doivent avoir lieu sur les questions constitutionnelles intéressant les autochtones. A la fin de la présente Conférence, nous aurons donc parcouru la moitié du chemin tracé par la Constitution.

Les ministres et les leaders autochtones ont dressé un ordre du jour qui me semble fort prometteur. Au cours des deux prochains jours, nous nous pencherons sur l'autonomie gouvernementale des autochtones, sur l'égalité entre les hommes et les femmes autochtones et sur un mandat visant à intensifier les discussions au cours des deux années à venir. L'étendue du terrain d'entente à cette conférence déterminera l'orientation et le rythme des travaux des deux années à venir.



I believe it is within our grasp to make this Conference not just the mid-point, but the turning point in our efforts to identify and define the rights of Aboriginal Peoples.

Let us decide at this Conference that our Constitution shall acknowledge that Aboriginal Peoples have a right to self-government.

Let us agree that we will work together and work out together, over time and on a case-by-case basis, the different means, constitutional and otherwise, that will be required to respond to the special circumstances of different aboriginal communities. Such an achievement would be historic in nature, the first step toward a new relationship between self-governing aboriginal communities and governments in Canada, a relationship upon which we may hope to build the mutual trust and confidence that has eluded us for so long.

The Iroquois teach us that is the obligations of chiefs and elders in councils such as this to keep in mind the unborn generations whose faces are coming toward us. Decisions are to be made, we are taught, with the well-being of the seventh generation in mind. That wisdom--that special kind of wisdom--should impress upon us the seriousness of our task in these discussions as we work together toward creating a Canada for the twenty-first century, for the descendants of all those who sit around this table unto the seventh generation.

Thank you. I would now ask Chief David Ahenakew to speak.

MR. DAVID AHENAKEW (Chief, Assembly of First Nations);

Prime Minister, Premiers, Elders, Aboriginal leaders,  
citizens of the First Nations, citizens of Canada:

(Speaks in Native tongue.)

I say those few words, Prime Minister, to  
indicate to you how serious we take a conference of this kind.

The First Nations welcome this opportunity to  
meet with you once again around this council table. Just as  
our ancestors welcomed you over four hundred years ago, our  
ancestors did not understand each other. But ours welcomed  
yours anyway.

They believed that sooner or later succeeding  
generations must learn to understand and live with each other.  
So far we have failed. We come to this table once again to  
attempt to communicate to you the intensity of the urgency  
First Nations feel.

For over four hundred years, in your languages  
and in our languages, we have been unable to get you to under-  
stand. I say an intense sense of urgency because the symptoms  
of our failure to communicate have left devastating scars on  
the lives of the First Nations of Canada. Statistics show  
the terrible conditions that have been forced on our people.  
You have stated some of them. Infant mortality rates are  
four and five times the national average. The rate of violent  
death amongst our people is higher than most countries of  
the world. Our unemployment rate is staggering, and yet  
our people somehow survive and want to work. Where our  
economies have not been destroyed by loss of resources, we  
support our families. We put food on our tables. We live

in dignity.

We do not want dependency. We do not oppose development but we want development that respects our cultures and our traditions, that respects the land, that makes us partners in the Canadian economy.

It should be clear to everyone that these goals cannot be achieved unless our basic rights are recognized and respected. I have no choice but to remind you of those unpleasant statistics. I have no choice but to remind you that the colonial system continues to violate our rights.

The Supreme Courts are telling Canada and Canadians that. Last November, the Supreme Court of Canada decided the Guerin case. The lawyers for the Government of Canada argued that the Musqueam Indian people had no rights to their reserve lands. They argued that the Crown could have sold Indian homes and lands and pocketed the money. The Supreme Court said no.



They said what we have always said that we have inherent rights to our lands. Rights that do not flow from your laws but flow from our laws, and they say that this was true both for reserves and for unsurrendered traditional lands. More recently in the Meares Island case British Columbia and MacMillan-Bloedel argued that the Indians had slept on their rights and could not now ask for protection of their land and resource rights. The British Columbia Court of Appeal pointed out that on the contrary Indians had been pressing their claims for generations. Mr. Justice Seaton said, and I quote:

"We are being asked to ignore this problem as others have ignored it. I am not willing to do that."

British Columbia and MacMillan-Bloedel also argued that the recognition of Indian claims would cause confusion and uncertainty among non-Indians. Mr. Justice MacFarlane disagreed. He said that the claims would come as no surprise to no one and that the public expected negotiations and settlement. Should we not expect our governments to listen to what the Courts are telling us? Surely, the foremost lawmakers in the land, the First Ministers must feel honour-bound to respect the Courts of this land. And it is not just the Courts, Canadian people know what we are saying and they support us. We hear that directly from Canadians and it was confirmed in the public Gallup Poll of a year ago and that Gallup Poll indicated that a majority of Canadians believed that we have the right to govern ourselves and our resources.

We are grateful to the organizations and leaders that have publicly supported the First Nations: The Canadian

Labour Congress, the Canadian Ethnocultural Council, the Catholic Bishops, the Anglican Primate, the United Church and the various churches involved in Project North. I think all Canadians were moved by the strong support we received from his Holiness the Pope on his trip to Canada. Canadians increasingly realize that the world community is watching the situation in Canada. Canadian treatment of Indians and the Inuit was criticized in the United Nations Sub-commission on the Prevention of Discrimination and the Protection of Minorities last year. Madam Erika Deas, the Chairwoman of the United Nations' Working Group on Indigenous Populations spoke in Quebec City recently. She stated the view that the international law principle of self-determination of peoples applied to indigenous peoples. These international developments continue. We actively support the World Council of Indigenous Peoples, a body created 10 years ago under the leadership of George Manuel, and of course the indigenous people from Canada. Our cause is just, that is why we have this support from the people of Canada, that is why we have support from Canadian organizations like the Labour Congress and the churches, that is why there is international support.

But let me turn our dealings with the federal and provincial governments because everyone knows we are having problems in this process of the First Ministers' Conferences. We want this Conference to succeed but we have to be frank about basic principles and the goals of First Nations and about the problems First Nations have with this forum.

First, I must say that this is not the only forum or the only process open to the First Nations. Our basic

national rights as the First Nations involve a direct relationship with the Crown represented by Canada. Canada has the Constitutional authority to enter into treaties or agreements with the First Nations and those treaties can be modified or expanded. New treaties or renovation agreements restating the spirit and terms of the treaties all come within the protection of Section 35 of the Constitution Act, 1982.

This continuing bilateral treaty process can define and expand the treaty rights that are recognized and affirmed by the Constitution of Canada.

While I am dealing with this issue of the bilateral and treaty processes, Prime Minister, let me mention the Prairie Treaty Nations Alliance. This body represents First Nations within western Canada, which have treaties and treaty rights as part of their direct relationship with Canada and the Crown. These First Nations have requested direct participation in this Conference. The Assembly of First Nations support this request. As mutually agreed, at the appropriate time, Prime Minister, I will be inviting the Prairie Treaty Nations Alliance participants to make their statement at this table.

Turning now to the proposals of the Government of Canada for a Constitutional amendment on self-government, the First Nations have an inherent and distinct right to self-government. It is one of the most basic human rights that for the First Nations existed before this land was colonized and continues to this day. This right is inherent in all the early dealings between the Colonial Nations and the First Nations. It was recognized in the Royal Proclamation and consequently in the treaty process in the bilateral relationship between Indians and the Government



of Canada. It is the first right stated in the International Covenant of Civil and Political Rights which Canada signed in 1976. It was recognized by Parliament in an All Party Penner Committee Report last year. Self-government is fundamentally accepted by Canadians for themselves. The Gallup Poll mentioned earlier clearly demonstrates that Indian self-government is fundamentally accepted by Canadians as the right of the First Nations. How can I say more forcefully how obvious and fundamental this is and yet some provincial governments have opposed this basic principle.

Some of the concerns of the Assembly of First Nations have been heard and are reflected in the current federal position, but our most basic point has not hit home. Any relationship with Canada must begin with the basic unqualified Constitutional recognition of that right, and let us be frank, it is only if there is a basic recognition of our inherent self-government rights that there will be any incentive for Canadian governments to move with reasonable speed to resolve the specific questions of jurisdiction and fiscal relations with the First Nations. I call on the Premiers to be frank and honest with the First Nations that are represented here through the Assembly of First Nations. Let the Canadian people know precisely where you stand, where you stand on the fundamental principle of the basic right, distinct right of the First Nations to self-government and then we will discuss the details. We need that commitment from Canada and the provinces and we need it now.

We have been excluded from sharing benefits of our traditional lands. We have been excluded from resource

sharing and equalization. On the one hand we can say that there has been some progress but on the other hand we can echo the words of Mr. Justice Seaton of the British Columbia Court of Appeal about the claims of the First Nations where he said:

"The claims have not been dealt with and found invalid. They have not been dealt with at all."

Sadly, that is still largely the situation.

That is why I speak with such urgency. That is why I offer an opportunity to begin again to begin to work out the Canada First Nations relationships that will benefit all Canadians.

I said earlier that the first step was the entrenchment of our inherent right to Indian government of First Nations and what are the next steps. You need to look no further, Prime Minister, than some of the new processes you have initiated to find suitable models. The Deputy Prime Minister is currently heading several task forces that are reviewing federal programs. You have initiated, together with the provinces, a process of re-defining and perhaps re-ordering the economic foundations of this country. I invite you after having entrenched our inherent right to Indian government of the First Nations to join with those governments in bilateral undertakings to identify and agree upon Canada First Nations' political relationships, fiscal arrangements, economic relationships, Constitutional relationships, resource - revenue arrangements, sharing arrangements, treaty implementation processes, bilateral relationships, and I said at the outset, that First Nations were feeling an intense sense of urgency.

I want to conclude by assuring you that we feel just as intensely a sense of optimism with the prospect that a

new government may be willing to take up the opportunity and the challenge to join with us in initiating a new era in Canada First Nations' relations. We are ready to begin today. We will await your response. Thank you very much.

THE CHAIRMAN: Thank you. John Amagoalik please.

MR. JOHN AMAGOALIK (Co-chairperson, Inuit Committee on National Issues): We will be making our presentation in two parts and Mr. Nungak will do the first part, if that is okay Mr. Chairman.

THE CHAIRMAN: Sure, go ahead.

MR. ZEBEEDDEE NUNGAK (Inuit Committee on National Issues): (Speaks in Native Tongue).

MR. JOHN AMAGOALIK (Inuit Committee on National Issues): For example, most if not all of the 17 parties around this table will agree that we have just completed one of the most productive, and positive preparatory processes leading up to a Constitutional Conference on Aboriginal Matters. It would be fair to say that a spirit of reconciliation prevailed over the numerous officials and ministerial level meetings we attended. Non-beneficial rhetoric fell by the wayside as participants moved on to the business of discussing actual Constitutional amendments.

During this preparatory process the supportive provinces continued to provide the foundation for possible agreement. The federal government played a new and vital leadership role and some of the more reluctant provinces were ready to put aside old mind sets in order to express their genuine concerns and to explore new ideas.

The result of this progress enabled the federal

government to draft a proposal which incorporates many of the concerns expressed by the 17 parties involved in this process. The Inuit Committee on National Issues would like to stress that this document represents the closest the Constitutional process has come to producing a workable amendment on self-government. Being so close to a workable amendment on Aboriginal self-government, we cannot afford to allow the remaining obstacles to stand in our way. If the political will exists there is every reason for success and no excuse for failure.

We take this opportunity to briefly review what these proposed amendments on self-government are all about. Their effect can be neatly summarized in three points:

(1) there must be a basic statement of our right to self-government in the Constitution;

(2) there must be some mechanism for negotiating agreements for the establishment of institutions of self-government and the implementation of our right to self-government.

(3) there must be some way of insuring that these agreements on self-government will be constitutionally protected.



The Inuit believe that this is a very workable approach to amendments on Aboriginal self-government. We also emphasize that we are asking nothing more than basic respect for and Constitutional recognition of our right to self-government. The implications of the proposed self-government amendment should be obvious, and we are not asking the federal and provincial governments to sign a blank cheque. Those who suggest that entrenchment of our rights would lead to Aboriginal governments mushrooming across the country to challenge the authority of the federal and provincial governments are misrepresenting the situation. It is clear from the proposals before us that self-government agreements would be the result of detailed negotiations. We find it difficult to envisage circumstances where the federal or provincial governments would be willing to sign an agreement that they did not fully understand. Although the Inuit are pursuing a positive approach, there are still a number of concerns which must be resolved before we can be assured of the successful conclusion to this Conference.

While a few problems may prove to be difficult, we are confident that the necessary solutions are within the scope and means of the negotiations to be conducted at this table. What we seek here is our rightful place within this country, entrenched and protected by the Constitution.

Thank you.

THE CHAIRMAN: Thank you. I believe our next intervenor is Smokey Bruyere.

MR. LOUIS (SMOKEY) BRUYERE (President, Native Council of Canada): Thank you, Mr. Prime Minister.

Mr. Prime Minister, First Ministers, fellow delegates: Our Vice-Presidents, Mr. Harry Daniels and Mr. Dwight Dorey, together with the Presidents of our provincial and territorial organizations from across Canada, join me in welcoming you and Premier Miller to our deliberations. We also welcome those First Ministers whom we have been working with over the past several years. We intend to proceed directly to the important business of this Conference.

On behalf of the Native Council of Canada, I want to thank you for providing all of the parties with the official federal position one day in advance of this Conference so as to remove surprises. I also want to express our appreciation for the sincere and extensive efforts of your Ministers and officials over the last few months in creating an environment in which we have all attempted to work together. I also welcome the objectives you outlined in your letter to me of yesterday.

Despite these expressions of thanks and appreciation, I must regrettably state that your proposals fall significantly short of meeting the needs of my constituents. There is a proposal from which we can start on which we can build and our basic reaction can be put simply. Our survival and future development depends on three things:

1. A secure land base for our people;
2. The recognition of equality of all Aboriginal Peoples under Section 91.24 of the Constitution Act,

1867 and the entrenchment of a basic and clear statement recognizing our right to self-government, free from excessive restraints and restrictions.

As far as the agenda items are concerned, Mr. Prime Minister, the Native Council of Canada can state its position quite simply. As the representative of the largest number of Aboriginal Peoples of Canada, the Metis and non-status Indians, we are dedicated to achieving a clear and specific accommodation for our people in the Constitution. You have no doubt been informed that we are committed to achieving an Accord in the next two days which will result in a Constitutional amendment which specifies the right of self-government for Aboriginal Peoples. We understand and agree that it will be necessary to establish the actual on-the-ground institutions of this self-government through negotiated agreements, but we want to be absolutely certain, Mr. Chairman, that you understand what this means for the constituency of the Native Council of Canada. Some of our people will be reinstated to reserves and may achieve access to their right to self-government in that way, but that will account for only a small fraction of our people. In fact, most of us will require a different approach. For some, this will mean a secure land base for their communities. For those who do not now have a land base and particularly those in urban communities, other approaches are needed to ensure access to the right of self-government, including guaranteed representation in Parliament and the legislatures.

We will be discussing again the issue of sexual equality. While we would still prefer to revive the



original wording that was agreed to in 1983, we are certainly willing to look at alternatives. However, we must alert you to the fact that we, along with our brothers and sisters at this end of the table, do not want the Conference to bog down on this issue. If we cannot all quickly reach a solution, we would agree to see the sexual equality item tabled to the next FMC.

Mr. Chairman, the Native Council of Canada must continue to place priority on the issue of federal responsibility for all Aboriginal Peoples under Section 91.24 of the Constitution Act 1867. For us, this is the critical issue: equality of all Aboriginal Peoples. We have agreed not to dwell unnecessarily on the issue at this Conference, but we will certainly be raising it, both here and later in the ongoing process. That ongoing process is, itself, an agenda item we must consider carefully. We must look at the job ahead of us and the terms of addressing the issues listed in the 1983 Accord and design a way to deal with them in a short two-year period. The Native Council believes that a further First Ministers Conference will be necessary in 1986 if we expect to accomplish our task by 1987. In any case, we will insist that the possibility of a First Ministers Conference in 1986 be entertained in the meetings we will have in the coming months.

The next agenda item that you propose deals with the form that an accord might take. Our position in this matter must be clearly understood. We must achieve an amendment on the right of self-government or this Conference will have failed. We are convinced that you, with the



co-operation of First Ministers, will not allow this to happen. Success is possible and necessary. This can be achieved through an amendment that entrenches the right of self-government for all Aboriginal Peoples, whether they have a land base today or not. This right must be declared in a simple, straightforward way without the restrictions of having implementation depend on negotiated agreements. The only other element necessary in an amendment is to automatically entrench any agreements negotiated with provincial and federal governments as soon as they are concluded. Anything less, Mr. Prime Minister, will perpetuate the very injustices and inequalities that this Conference was supposed to correct for the Metis and non-status Indians of Canada.

In closing, Mr. Prime Minister, I invite you to tell us, the Native Council of Canada, where in the Accord that you have distributed to us are the rights of self-government for Metis and non-status Indians. Thank you.

THE CHAIRMAN: Thank you, Smokey. I salute you as well for your sartorial elegance. This morning the Nova Scotia tartan is doing very well, John. I just mention that "en passant."

I think Sam Sinclair is next.

SAM SINCLAIR (President, Metis Association of Alberta): Thank you, Mr. Prime Minister. I also want the youth representative of the Metis National Council to speak if that is possible.

Mr. Prime Minister, First Ministers, representatives of Aboriginal organizations and elected representatives of the territories: One hundred years ago today, the Metis of the

northwest and the Government of Canada were engaged in a fundamental conflict over the right to land and self-government claimed by the Metis people. Our purpose at this Conference is to ensure that the objectives of our forefathers are fully recognized by entrenching them in the Constitution of Canada.

Specifically, our purpose at this Conference is to come to an agreement to entrench the right to self-government and to secure a land base. We seek to move forward in a positive way to ensure our common objective of the right to self-government is implemented. We want to develop consensus on a clear process based upon a new understanding and a trusting relationship. We seek a process which will achieve our common objectives and which will allow our people to contribute in a positive way to Canadian society. Based on this understanding, we must move forward as partners in a manner that will enable us to share any positive benefits that will flow from self-government.

Riel and the Metis people in 1870 believed that they had achieved that partnership and understanding. History has proven that this was not so. Both the Metis and the people of Canada have a clear interest in ensuring that history does not repeat itself. If we are to further progress as people and continue to make positive contributions to Canadian society, we must, along with the government, ensure that our partnership does indeed enable us to realize our objectives. The Metis people have a strong sense of their history. We have had historically a keen sense of justice and a passionate devotion to the belief that all people must be

free to exercise their right to determine their own destiny.

These were the principles which Riel and the provincial government of the Red River put forward in the Charter of Rights in 1870. It was for these same principles that Riel and Dumont and their Metis followers defended Metis rights in their homeland. It is clear that it was for these fundamental principles that Riel gave his life on the gallows in Regina one hundred years ago. Recognition of the centennial of the Battle of Batoche is therefore a commemoration and not a celebration for our people.

The injustices which our people have endured over the years have been the consequences of the unjust way in which the government of the day dealt with our leaders and our people. We believe that on this historic occasion governments are presented with the opportunity to begin a process in which our grievances can be rectified and in which our rights as people can be restored to us. I may add, from what I heard this morning in the opening statements made by the Prime Minister on Aboriginal People, that I feel he was speaking from the heart as we are as Aboriginal People, and I plead with the Premiers and the Ministers to do likewise.

(Speaks in Native tongue).

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Sam. I think Kevin Daniels will be our next intervenor. Kevin?

KEVIN DANIELS (Metis National Council):  
Mr. Prime Minister, First Ministers, Aboriginal leaders and



Metis youth with the Metis homeland: 1985 has been designated by the United Nations General Assembly as the International Year of the Youth. As a result of this declaration, many nations from around the world will be discussing the three themes: Participation, Development and Peace.

To the Metis youth within the Metis homeland, 1985 will be recognized as the centenary of the Northwest Resistance at Batoche and, as well, International Youth Year. Since the announcement of the International Youth Year themes, the Metis Youth within the Metis homeland have been asking themselves: "How do we participate? What do we develop? How do we accomplish peace?"

Mr. Prime Minister and First Ministers, because of the poor social and economic conditions that our people have been forced to live in, we are unable to participate in society equally with the rest of Canadian people. Instead, our youth are locked up in jails and penitentiaries across western Canada. In my home province of Saskatchewan, one of the correctional centres averaged over 400 inmates this past year. Seventy per cent are Native People, and out of that 70 per cent 90 per cent of the inmates are between the ages of 18 and 24. To the Metis youth of western Canada, this is not participation.

Mr. Prime Minister and First Ministers, these conferences on Aboriginal matters give us the opportunity to participate respectfully in Canadian society depending on what is entrenched in the Canadian Constitution and what is not entrenched in the Canadian Constitution. Therefore, there are certain rights that are important to us as Metis youth. These



are the rights to self-government and the right to a land base. Today, various self-governing institutions have been established in this country to prove that self-government works, but these institutions can be easily taken away from us at any point in time unless there is Constitutional protection for them.

In closing, Mr. Prime Minister and First Ministers, in order for Canada to maintain the spirit of peace with the Aboriginal Peoples, you must deal with our solutions to our problems and you must entrench our solutions to our problems. This is the key for keeping peace within Canadian Confederation. In doing this, Canada will show the rest of the world that they can deal fairly with its indigenous populations. Thank you.

THE CHAIRMAN: Thank you, Kevin. We are very conscious of our responsibilities. We have, apart from the Ministers, the caucus playing a very important role in this. Frank Oberle, who is with us, assumed a special responsibility in this area; and Stan Schellenberger, who is both knowledgeable and provides great leadership and moral authority in guiding the government caucus in the manner in which we should proceed. We are not unaware of our responsibilities long overdue and, in co-operation with our provincial colleagues who have been showing great understanding of our national moral dilemma, we hope to make substantial progress for many of the reasons that you have just mentioned.

There is a noble tradition in Baie Comeau just about this time; it is called une pause-café. I suppose it is universal, so perhaps we will take a few minutes and come back with the Premiers. Thank you.

--- Short Recess

---Upon Resuming

LE PRESIDENT: Nous allons reprendre les délibérations, s'il vous plaît.

Suite aux interventions des chefs autochtones, nous allons passer maintenant aux Premiers ministres des provinces en commençant par le nouveau Premier ministre de l'Ontario, l'honorable Frank Miller, Mr. Premier.

HON. FRANK MILLER (Premier and Minister of Intergovernmental Affairs, Ontario): Thank you, Mr. Prime Minister.

I have learned one thing. The pauses-café of Baie Comeau last longer than the pauses-café of Bracebridge.

I am delighted to have an opportunity to participate in a Constitutional Conference of such importance. I am sure you and I both are pleased to hear the leaders of the Aboriginal Peoples here today recognizing you and I as new people.

I was preparing for this Meeting, not only reading my briefing notes but reading a book called "Mulroney", which I suppose has the sub-title "The Boy from Baie Comeau". I reflected on that a bit and realized that the boy from Brampton has just retired; the boy from Bracebridge has just taken his place. It would seem you have to be a "B" to be a leader.

HON. JOHN CROSBIE (Minister of Justice and Attorney General, Canada): Not a "son of a 'B'".

THE CHAIRMAN: I want the record to show it was Crosbie who said that.

HON. FRANK MILLER (Ontario): If there were not an election on, I might have retorted something else.

As is obvious from a glance at the representatives of our province here at the Conference, Ontario has undergone a recent change in leadership and in the Ministers having responsibilities related to these matters. I want to assure you, however, that these changes do not signify any shift in Ontario's position regarding the issues before us.

My government is committed to continuing with the constructive approach taken by my predecessor, the Honourable William Davis, and his Ministers.

Nous admettons tous le fait que les problèmes dont nous avons entrepris l'examen sont extrêmement complexes. Nous n'avons pas essayé de minimiser nos divergences d'opinions et nous n'avons pas non plus nié l'existence de certains facteurs historiques dont il faut tenir compte, dans une certaine mesure.

We all recognize the fact that the issues we are dealing with are exceedingly complex. We have not tried to minimize the degree to which there are different views around this table, nor have we denied that there are historical factors that in some measure must be taken into account.

Like so many other meetings we have in this country, a particular measure of compromise and flexibility will be necessary on this occasion if we are to succeed.

I am also aware of the fact that there are differing perspectives with regard to the progress of the discussions themselves. Generally, I sense, Prime Minister, responses of the leaders of the Aboriginal Peoples, the people I have talked to all feel progress is being made. I would suggest to you it is because you and your government have shown the kind of sensitivity to and awareness of the need to work together at this time. I think that makes all the difference.

On the one hand, Aboriginal Peoples feel that our accomplishments to date have been limited.

Governments, on the other hand, are constrained by their need to understand more fully the practical implications of those Aboriginal rights.

While these differences do exist, I think there is the potential for compromise at this Conference. I am conscious of the need to get down to negotiations on concrete matters.

I believe that our decision to focus largely upon the agenda item of "Self-Government for the Aboriginal Peoples" is really a recognition of this opportunity. As well, we have concluded that this subject will require tripartite negotiations with each of the Aboriginal groups within our province.

I think we all accept the fact that any institutions of self-government must reflect the particular circumstances of the different Aboriginal Peoples and must be seen to complement our existing governmental institutions.



The real question before us, then, is how we take the next step which will permit us to proceed with the detailed negotiations that must take place.

Ontario has chosen to support a Constitutional approach.

This approach would see us recognize an Aboriginal right to self-government within the Canadian Federation, and then make the right operative only through negotiated agreements among the federal government, the provinces or territories, and the various Aboriginal Peoples.

In this way, we will put in place a meaningful symbol of our belief in the unique value of the Aboriginal cultures and societies.

At the same time, we will acknowledge the fact that only through negotiations with governments can those rights be defined in an appropriate and in a sensitive way.

To the general public, this approach should make clear our desire to meet the Aboriginal needs while, at the same time, respecting the interests of all residents of our country, its provinces and its territories.

If we adopt this approach, the people of Canada will know what whatever the outcome of the negotiations, Aboriginal self-government will have to be developed within the context of Canadian federalism and will have to be compatible with our existing institutions.

By providing that any right of self-government comes into being only through negotiated agreements, it ensures adequate safeguards. By establishing negotiations at the provincial and territorial levels, it offers the kind of flexibility and sensitivity we need to address the differing

circumstances of our Aboriginal Peoples.

Therefore, Ontario supports a Constitutional agreement which will give us the means to identify such a right while, at the same time, providing for a process of negotiation by which this right will be defined.

As we proceed to define these rights, it is very important to ensure that we do not threaten the rights now recognized and affirmed in Section 35(1) of the Constitution. Accordingly, Ontario proposes that an appropriate non-derogation clause be included in any Constitutional amendment relating to self-government. A political agreement may also be needed to establish a workable process to be followed in the years ahead.

Before concluding, I would also like to make a brief comment on one other agenda item before us, namely, the equality between male and female Aboriginal People.

In addressing this question, the Government of Ontario proceeds from a commitment to sexual equality for Aboriginal men and women. I am sure that all of us around this table do share that commitment. However, there is some debate as to whether existing Constitutional provisions do adequately ensure that this goal will be met.

In view of the different positions that have been advanced on the matter of equality of the sexes, we are willing to be flexible in terms of how and when such equality is ensured. However, we are not willing to be flexible on the principle itself.

In closing, may I express the hope that governments will recognize that the Constitutional approach

supported by Ontario represents a sensitive and a prudent way for us to take the next step.

I am confident that the Aboriginal groups will show an understanding of the need to reflect a balance of interests in any amendments agreed upon. I am confident that if we are fair, the people of this country will support us.

I can assure you that Ontario will continue to do its part to bring about progress on the issues before us.

Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mr. Premier, for a very thoughtful statement of national leadership by the Government of Ontario.

Je pense, collègues, que même ses adversaires politiques admettraient que depuis le début de sa carrière politique le Premier ministre du Québec s'est intéressé de façon remarquable et hautement positive à ce dossier des autochtones du Québec. J'en ai été personnellement témoin à plusieurs occasions et c'est donc avec plaisir que j'invite le Premier ministre du Québec à prendre la parole.

L'HONORABLE RENE LEVESQUE (Premier ministre de la province de Québec): Merci, monsieur le président.

C'est vrai. La première fois que j'ai découvert ce qu'on peut appeler, hélas, c'est encore vrai que c'est un problème, le problème des droits des autochtones, c'est en 1963, il y a 22 ans.

Contrary to lucky Ontario, we in Quebec have not yet gone through a change of leadership. So, you will have to bear with yours truly once again.

THE CHAIRMAN: There is a Constitutional amendment against leadership review.

HON. RENE LEVESQUE (Quebec): Well, we can deal with that eventually, along with the rest of it.



Nous voici donc réunis pour la troisième fois en autant d'années dans le but de préciser la nature et l'ampleur des droits des autochtones. Après trois ans, je pense que nous savons tous fort bien à quel point c'est complexe, comme l'a dit monsieur Miller il y a quelques instants, mais aussi à quel point c'est nécessaire qu'on finisse par arriver à quelque chose.

D'autre part, comme chacun le sait -- je suis obligé de le souligner de nouveau -- la participation du Québec à ce processus se fait dans un contexte particulier et, ça, on n'y peut rien.

Si nous avons accepté, nous du Québec, de nous associer depuis le début à cet exercice, comme on le dit en anglais, c'est uniquement pour nous rendre à l'insistance des représentants des nations autochtones du Québec, et c'est pour la même raison que nous continuons à le faire.

Je me dois donc de rappeler brièvement, mais encore une fois, que notre présence ne peut d'aucune façon être interprétée comme une reconnaissance de la Loi constitutionnelle de 1982, qui fût adoptée sans notre consentement et contre notre volonté, au Québec. A cet égard, c'est presque ironique d'avoir à le mentionner au moment où on envisage la reconnaissance constitutionnelle de droits, de droits non seulement individuels mais collectifs, en quelque sorte de droits nationaux pour les peuples autochtones. C'est presque ironique mais, il faut bien le souligner, le reste du Canada n'admet pas encore l'identité d'une autre nation tout aussi distincte que n'importe quelle autre et qui est concentrée

surtout au Québec où elle trouve, je crois, sa seule vraie patrie, une nation que le Canada Bill s'est permis d'ignorer totalement comme s'il s'agissait d'une simple collection d'individus. On sait à quel point -- et ça ce n'est évidemment pas votre serviteur qui va le nier, le Québec, je crois, n'a de leçons à recevoir de personne en ce qui concerne les droits de l'homme, qu'on appelle maintenant plutôt les droits de la personne -- on sait à quel point l'individu, la personne, c'est fondamental; mais une personne appartient aussi à une communauté humaine et, mesdames et messieurs les représentants des peuples autochtones, vous en êtes la preuve vivante ici même. Dans notre cas, on a fait comme s'il s'agissait d'une collection d'individus qui n'auraient aucune appartenance distincte alors qu'en réalité le Québec français possède un caractère indiscutablement national, qu'on l'admette ou qu'on ne l'admette pas.

Maintenant, pour revenir à notre Conférence, lors de notre rencontre l'an dernier, j'avais évoqué deux gestes que notre gouvernement se préparait à poser dans le cadre de ce que j'appelais la coexistence des autochtones et des autres Québécois à l'intérieur du Québec. C'est en effet à la recherche de formules de coexistence aussi fécondes que possible et à la conclusion d'ententes qui concrétisent ces rapprochements que notre gouvernement, comme je le disais l'an dernier, entendait consacrer ses meilleurs efforts pour assurer, dans le respect de l'égalité fondamentale et de la dignité de chacun, les relations les plus harmonieuses et les plus enrichissantes possibles entre les autochtones et l'ensemble

des Québécois.

Concernant le premier de ces gestes, il me fait plaisir -- ça se fera dans quelques instants -- de déposer ici à la Conférence le texte intégral de la Résolution, que vous avez d'ailleurs mentionnée, monsieur le président, adoptée le 20 mars, il y a quelques jours, par l'Assemblée nationale du Québec. Vous me permettrez d'en souligner un aspect particulièrement significatif.

Cette Résolution n'est aucunement restrictive et, sauf la clause concernant l'égalité des sexes, elle ne prétend pas se substituer à d'autres autorités -- celle du fédéral ou des nations autochtones elles-mêmes -- pour reconnaître ou octroyer des droits. Ce qu'elle fait essentiellement, cette Résolution, c'est de proclamer que l'Etat québécois assurera aux autochtones l'exercice de leurs droits, et que cette assurance passera par des ententes dûment signées qu'on pourra modifier au besoin mais uniquement avec le consentement des parties signataires.

As I was just saying in French, there were two concrete steps which I stated last year we were envisaging in Quebec. Neither of them world shaking, but I think a bit significant, nevertheless.

One is a Parliamentary resolution, a sort of declaration of rights, if you want, which just a few days ago, on March 20, was finally passed in the National Assembly in Quebec. Knowing very well it does not meet all the requirements -- not to mention all the aspirations of our Native fellow citizens -- I hope it will help move things forward a little bit, especially, like all things human, it remains imminently

perfectable.

Be that as it may, here it is:

"THAT this Assembly:

RECOGNIZES the existence of the Abenaki, Algonquin, Attikamek, Cree, Huron, Micmac, Mohawk, Montagnais, Naskapi and Inuit nations in Quebec;

RECOGNIZES existing aboriginal rights and those set forth in The James Bay and Northern Quebec Agreement and The Northeastern Quebec Agreement;

DEEMS these agreements and all future agreements and accords of the same nature to have the effect of treaties;

SUBSCRIBES to the process whereby the Government has committed itself with the aboriginal peoples to better identifying and defining their rights - a process which rests upon historical legitimacy and the importance for Quebec society to establish harmonious ties with the native peoples, based on mutual trust and a respect for rights;

URGES the Government to pursue negotiations with the aboriginal peoples based on, but not limited to, the fifteen principles it approved on 9 February 1983, subsequent to proposals submitted to it on 30 November 1982, and to conclude with willing nations, or any of their constituent bands, agreements guaranteeing them:



- (a) the right to self-government within Quebec;
- (b) the right to their own language, culture and traditions ---"

That goes without saying,

- "(c) the right to own and control their land;
- (d) the right to hunt, fish, trap, harvest and participate in wildlife management;
- (e) the right to participate in, and benefit from, the economic development of Quebec, so as to enable them to develop as distinct peoples having their own identity and exercising their rights within Quebec;

DECLARES that aboriginal rights apply equally to men and women;

AFFIRMS its will to protect, in its fundamental laws, the rights included in the agreements entered into with the aboriginal peoples of Quebec; and

AGREES that a permanent parliamentary forum be established to enable the aboriginal people to express their rights, needs and aspirations."

Ce que signifie cette déclaration c'est que ça ajoute simplement au fait que le Québec a déjà reconnu explicitement certains droits à des nations autochtones de son territoire, par exemple, ceux inscrits dans la Convention de la Baie James et du Nord québécois et dans celle du Nord-est québécois, et en assure l'exercice par voie d'ententes consacrées dans ses propres lois.

Dans d'autres cas, c'est plutôt en vertu de l'équité que de textes légaux, constitutionnels ou historiques ou quoi que ce soit qu'on l'a fait, par exemple, en ce qui concerne les droits ancestraux de chasse et de pêche, qu'on a reconnus aux nations attikameks et montagnaises, même à l'intérieur du territoire qui était décrété «territoire du gouvernement du Québec» par la Proclamation royale de 1763.

Mais, en définitive, quels que soient les droits des autochtones, quelle qu'en soit la source, quelle qu'en soit la «constitutionalisation», il restera toujours de première importance que de tels droits puissent s'exercer concrètement et, autant que possible, dans l'harmonie. Evidemment, les tribunaux ont toujours un rôle important à jouer en ce qui touche la sauvegarde des droits inscrits, mais il faut espérer que l'on puisse trouver ensemble des façons de définir nos modes de coexistence en tenant compte non seulement, ni même principalement peut-être, de cette épée de Damoclès que constitue le système judiciaire mais d'abord et avant tout du fait que nous vivons ensemble, que nous nous côtoyons, en quelque sorte, quotidiennement sur un territoire donné que nous avons à partager.

Je sais qu'à plusieurs occasions des représentants des nations autochtones ont voulu mettre en veilleuse, sinon en doute, le rôle des gouvernements provinciaux à leur égard. Je les comprends. C'est l'histoire elle-même qui s'est chargée de nourrir leurs appréhensions, une histoire qui plus souvent qu'autrement a laissé au seul gouvernement fédéral le devoir de se préoccuper d'eux. Malgré tout, les gouvernements des provinces, dont ceux qui se sont succédé à Québec depuis quelque 25 ans, ont amorcé une démarche de responsabilisation -- si vous permettez l'expression -- que l'actuel processus pan-canadien auquel nous sommes associés permettra, il faut l'espérer, de préciser et d'approfondir. Au terme de cette démarche, et même en cours de route, il faudra que les gouvernements provinciaux aussi s'engagent à l'égard des autochtones et que ceux-ci mesurent bien l'importance de cet engagement.

Est-il besoin de rappeler que, la situation étant très souvent différente d'une province à l'autre, les engagements que les gouvernements provinciaux prendront devront dans bien des cas différer les uns des autres. Je ne pense pas qu'il puisse être question d'une approche absolument uniforme parce que c'est ce qui pourrait nous empêcher de nous entendre, de toute façon, avec les représentants des peuples autochtones sur des formes de coexistence qui respectent à la fois leurs objectifs et la situation concrète dans laquelle nous sommes obligés de vivre tous ensemble.

Avant de terminer, je voudrais évoquer un instant le second geste concret que nous annonçons l'an dernier: il s'agit de la signature d'une entente du genre gouvernement à gouvernement avec les Mohawks de Kahnawake touchant la construction de leur hôpital. L'entente a effectivement été signée le 24 avril dernier, en 1984, et il me fera plaisir tout à l'heure d'en déposer une copie parce que chacun comprendra que cette entente dont les clauses l'emportent sur nos lois, en vertu d'une législation spéciale à cet effet qui a été adoptée à l'Assemblée nationale en juin 1984, chacun comprendra qu'une telle entente exigeait de la part de tous les intervenants, en plus d'une bonne dose de confiance mutuelle, la conviction profonde que c'est à partir du respect de la dignité de chacun que peuvent s'édifier des formules de coexistence fructueuses.



That I just mentioned is the second concrete step that we were envisaging at last year's conference being so to speak an intergovernmental agreement between us and Quebec and the Mohawk people of Kahnawake. An agreement that had to do with a new hospital that they needed and that agreement was effectively signed last April, April, 1984. And I am kind of proud to have it available here for distribution at the conference because according to a specific statute we passed in Quebec in June of last year, its content now prevails over our general legislation in the field of health and social services. And I guess everyone will understand, simple as it sounds, how much mutual trust this change required, along with the strong belief in the fruitfulness of arrangements based on recognition not only of each other's dignity, but of each other's basic equality.

Tout en demeurant, donc, je vous le dis en terminant, associés au présent processus, du moins, aussi longtemps que la chose paraîtra désirable aux autochtones du Québec, nous continuerons notre propre démarche visant à expliciter et à préciser de mieux en mieux l'exercice par nos concitoyens autochtones des droits que l'histoire, l'équité ou les constitutions peuvent leur reconnaître.

Merci, monsieur le président.

LE PRESIDENT: Merci, monsieur Lévesque.

THE CHAIRMAN: Merci, Monsieur Levesque, I would be personally hard pressed to improve upon a statement of accomplishment and intention that powerful and compelling and I thank Premier Levesque for his intervention.

May I turn please to Premier Pawley of Manitoba.

THE HONOURABLE HOWARD PAWLEY (Premier of Manitoba):

First let me commend you, Mr. Prime Minister, on your opening statement. The only items, I would suggest to you, Mr. Prime Minister, the next time you might ensure that the covers be in orange rather than blue.

The central issue at this historic meeting is Aboriginal self-government. For the Aboriginal Peoples of Canada that issue above all others has come to represent their aspirations, to be able, finally, to break the last restraints of the colonial past.

Canada is a signatory to international covenants which declare the right of indigenous peoples to self-government. The time has come to honour that commitment by a clear Constitutional declaration of that right.

Section 35, subsection (1) of the Constitution Act, 1982 recognizes and affirms the existing rights of Canada's Aboriginal Peoples.

In Manitoba's view those rights necessarily include any right to self-government, however, in order to remove any uncertainty of that right, the most important of all Aboriginal rights, must now be separated, identified and declared in fulfilment of our obligation under Section 37 of the Charter.

That has been our view from the beginning of this process.

A view, let me say, which we have developed in close co-operation with the Aboriginal Peoples, who have been part of our delegation from the very beginning of this process.

On March 15, 1983, Manitoba tabled a position paper, entitled Statement of Principles.

In that paper we noted as follows:

The special status of Aboriginal Peoples in Canadian society stems from the fact of their occupation, use and collective ownership of lands in what is now Canada prior to European settlement and the application of European law. The Aboriginal Peoples existed as distinct nations and exercised self-governing powers over their territory and over their religious, their cultural, their social, their economic and political life. They also exercised control over living and natural products of the land they inhabited. The treaties and modern agreements cannot be construed as constituting a general extinguishment of fundamental aboriginal rights.

From that premise we went on to declare, Mr. Prime Minister, that these rights ought to include the "... right to self-government subject to the Canadian Constitution and within the Canadian Confederation."

In that and in subsequent documents we have suggested other parameters for Aboriginal self-government. These parameters include federal fiscal responsibility and the need to provide Aboriginal governments with a Constitutionally protected



mechanism for fiscal transfers so that they can provide native Canadians with services "reasonably comparable to those available to Canadians generally, taking into account the special social, the cultural and the economic needs of Aboriginal Peoples".

At this meeting we re-affirm our previously declared positions on Aboriginal self-government.

We are ready to offer our support in principle to the federal position tabled today. We have some reservations and qualifications which we will offer as this discussion continues.

Prime Minister, there are those who hestiate and who say in effect "First define and then enshrine". In our considered view there is no single definition of self-government which can encompass the varying needs, the conditions, the economics, the cultural and the historical backgrounds of Canada's Aboriginal Peoples. The Inuit, the Indian and the Metis people of Canada differ not only between themselves but often within themselves. If self-government means anything it must mean the right of particular groups, communities and nations to participate in the definition of the charter of their collective existence. In our view it would be wrong for existing non-native governments to seek to impose a singular and universally-applicable definition of self-government on Canada's Aboriginal People, indeed, none exists.

The federal proposal which combines a much-needed declaration of the right to self-government with a commitment to negotiate and subsequently define by a series of multi-lateral negotiations, I believe, has merit and we support it

in principle.

I conclude, Prime Minister, by stating that the Aboriginal People of Canada have waited, in effect, for close to four hundred years. Their existing right to self-government should be declared now.

Mr. Prime Minister, let me add a quick note: this year marks the centennial of the hanging of Louis Riel, the Metis leader who is recognized and who is honoured as the founder of the Province of Manitoba. It was a vision which kept Manitoba, indeed all of the West, as part of Canada. We must honour that vision in deed as well as in words.

Thank you very much.

THE CHAIRMAN: Thank you, Mr. Premier.

May we turn to the-distinguished Premier of Nova Scotia.

THE HONOURABLE JOHN M. BUCHANAN (Premier of Nova Scotia):

Thank you, Mr. Prime Minister, colleagues and representatives of the Aboriginal Peoples. Mr. Prime Minister I, too, noted the sartorial elegance of our representatives of the Aboriginal Peoples and they pointed out to me as soon as I walked into the Centre that I was conspicuous by not wearing the first tartan of Canada. Now, sir, as you are well aware we Nova Scotians move very quickly, and I am about to rectify that slight oversight on my part.

(Produces and dons Nova Scotian Tartan tie).  
Also in order that we are not the only elegant ones around this table I have one for you.

(Passes tie to the Prime Minister).

Mr. Levesque would like one, and I will get one for him later. I want to tell you that your brother was remembered in the navy navy in Halifax--you mentioned that the last time.

I suspect, Mr. Prime Minister, that the representatives of the Aboriginal Peoples are attempting to tell me something.

Sir, we want to say at the outset that we welcome your personal chairmanship to this conference. As the province from which you launched your electoral career, Nova Scotia has a particular interest in your leadership and we have listened with careful and appreciative interest to your opening statement, which we found most impressive, very sincere, logical and a mix of understanding and fairness. We have also listened with close interest to the responses that we have just heard from the representatives of the Aboriginal Peoples.

Prime Minister, in each of the First Ministers' Conferences on Aboriginal constitutional matters, as my Ministers and officials have done at intermediate meetings I have stated Nova Scotia's commitment that the Aboriginal Peoples within our province and throughout Canada should be supported and assisted with the development of significantly increased authority and responsibility for their own internal affairs. Because we are discussing amending the Constitution of Canada, we have to this point been reluctant to use the words self-government until there is a much greater measure of shared understanding of the words for inclusion in the supreme law of Canada and within the context of the Canadian



federation.

Now, Mr. Prime Minister, the draft federal proposal placed before us at this conference would put the words into the Constitution now, the principle into the Constitution now, to be defined by agreement in subsequent negotiations. We recognize that elements which Aboriginal representatives have from time to time asked for, such as sovereignty, land base, exemption from taxation by non-Aboriginal governments, paramountcy of their laws, guaranteed legislative representation would not be at this time included in the Constitution but could be taken up in subsequent negotiations directed toward concluding agreements relating to self-government.

Mr. Prime Minister, as we all know, a Constitution is never easily achieved nor easily changed, that is how it should be. In the traditional Canadian way we seek understanding and compromise for the benefit of all who share this great country and there is no question that our Aboriginal Peoples deserve to be in a position to lead a good and prosperous life in Canada, which after all is their country, their Canada. Over the past number of years, Mr. Prime Minister, the officials from Nova Scotia, our Ministers and myself, have expressed concerns and I want to point out to you, sir, that some of those basic concerns have now been addressed by your proposal which has been placed before us today.

Prime Minister, we are here to listen, to communicate, to discuss and to give full weight to all opinions so that at the end of this two-day conference, all parties may say real progress has been made. Nova Scotia and Nova Scotians have



long been known for our fairness, equity, a sense of justice and rightness, and our understanding. And I want to tell you, sir, that those qualities will not be missing for myself and the members of our delegation over the next two days. Thank you.

THE CHAIRMAN: I thank you Mr. Premier. As a former member for Central Nova with great pride I listened to your remarks and I thank you, sir, for them.

May I turn to the Premier of New Brunswick.

THE HONOURABLE RICHARD HATFIELD (Premier of New Brunswick):

Thank you, Mr. Prime Minister. I think it is well known that I have been participating in these conferences for quite some time at the ministerial level as well as at the First Ministers' level and it is true that a good deal of progress has been made in a sense that I think we all are beginning to understand the aspirations of some people and the fears of some people. But the fact of the matter is, Mr. Prime Minister, I truly do believe the time has come when we must stop making progress and we must act. I do believe that we are as we continue discussing, as we have been, we are continuing to raise expectations and raise fears, and the best way, it seems to me, to deal with that, is to seriously discuss particular and specific things and get resolution of them, rather than to delay any longer and encourage expectations which will not be realized or be paralyzed by fears that are unfounded.

Mr. Prime Minister, you indicated in your opening

remarks that you know what it is like to sit down at the table with opposite, very powerful interests. The fact of the matter is, Mr. Prime Minister, that at this table there is one end of the table that is powerful and there is another end of the table which really has no power at all. They have an historic claim and that historic claim is beginning to influence religious leaders, judicial leaders, and the population generally of our country. But the fact of the matter is that they are here as a result of a decision made by the eleven governments--sorry, ten--sorry, Mr. Levesque, ten governments of Canada and they are here because of the Constitution and I feel very strongly that the beginning of accomplishing something real is to simply acknowledge in the Constitution, as you have proposed, that the Aboriginal Peoples have a right to self-government. I really feel very strongly that unless we do that now, and I mean this week, that we are going to repeat the history of places that have taken too long to come to terms with an emerging popular and right demand from a population that is not being treated equally. We must sit down at the table after this conference as equals and we must begin negotiation .

It has been a problem for me at the beginning to recognize the right of self-government but I have now come to the conclusion, having listened and heard what I have heard, that there is a growing acceptance among the Aboriginal Peoples that they are part of this country and want to remain part of this country, that they do respect in their particular geographical jurisdictions, they do respect the rights of

minorities or the rights of majorities, that they do have a central quality and concern for equality. And I think we must show the same respect for equality and recognize that the Aboriginal Peoples have a right to self-government, and we must put that right on the same level as we have it for ourselves, that is in the Constitution. Thank you.

THE CHAIRMAN: Thank you, Mr. Premier.

May I turn to the Chairman of the Conference of Premiers, whose, may I say, leadership and good work has certainly facilitated our initiatives, not only in this, but in the Regina First Ministers' Conference and in other areas, and I thank you for that, Jim, and I invite you to please proceed.

THE HONOURABLE JAMES LEE (Premier of Prince Edward Island):

Mr. Prime Minister, fellow Premiers, and Aboriginal leaders who are here with us today. I want to first of all say that although some of the faces around the table here this morning are new to the conference itself, as we go through the conference, we realize that the issues still remain with us and this is basically why we have come together again.

As well, our common goal as leaders is to ensure a fair and equitable place in the Canadian society for our Aboriginal Peoples who are represented here today. The discussions that we have held in the past are exceedingly complex and have led to some progress over the months, but at a very slow pace. And that is not to say, Mr. Prime Minister, that the slow pace has been bad. It has allowed

the First Ministers like ourselves and many Canadians to gain a greater understanding of, first of all, the complexity and differences between the regions and the various Aboriginal groups within this vast country of Canada. There is not a quick or an ideal solution to the inequities that have existed in the past but there are solutions to be found, and I believe by working together and only by working together, will they be achieved here at this conference.

I believe we as First Ministers can rise above the other concerns and provide the necessary leadership that will result in enhancing the quality of life of all native peoples.

I want to say we are a great nation, we have achieved much in our history. We have the capacity and the ability to achieve new breakthroughs. We are mature enough to ensure everyone's rights are protected and we can grant to the first inhabitants of this country their rights and control of their culture.



I am here, Mr. Prime Minister, to ensure that Prince Edward Island makes its contribution to resolving the deeply-held conviction that the Aboriginal groups have placed before us. One of the greatest problems in the diversity of opinion on the topics that we are addressing is the differences among Aboriginal groups themselves as well as among other participants. This compounds the problem that exists here today.

Perhaps one uniform solution cannot be found, but solutions will be found on a national basis, while others may be addressed at the regional or even the provincial basis. It is very important to have a clear understanding of the problems that we have before us here today before we would leap into a solution that may not be the best.

There are other activities that will have some bearing on the type of progress we can make at this meeting and in this process. One example is the Indian Act, Bill C-31, which is now before the House of Commons. The Act will resolve many questions, while others remain to be addressed for the equality of all Aboriginal Peoples. I would suggest that more progress can be made at these discussions if we concentrate more on the moral dimensions of the discussions rather than dwell on the legal complications. I do not believe that we will be able to extract assurances on all the details that we would like, but we can establish a framework by which greater success can be achieved over the next few years. Whether a Constitutional entrenchment of the process or a political Accord will enhance the direction of our discussions will be determined by the approach of those taking part in this

Conference here today. During the past year my Minister, the Honourable Mr. Driscoll, has been meeting with the Native Council of Prince Edward Island to determine their vision and their aspirations as Native People. I, as well, have had meetings with them and now have a greater insight into the definition of "self-government".

To me, Mr. Prime Minister, it is more like self-determination; a determination to control their own destiny within the Canadian Confederation and not a third level or order of government. Part of their objective is to remove some of the bureaucratic upheavals from their lives and establish the dignity that will enable them to be productive members of the Canadian society and have a quality of life that may do more than they now enjoy. Discussions always lead to greater understanding, and we must be careful, I feel, not to place our own definition on the terms of others.

For example, in our discussions with our Native Council, we recognize a determination by its members to have more control over social, economic and educational programs and policies that affect them. We believe that we can make progress in this area, and we are committed to see that progress will take place in consultation. These, of course, are only a few of the areas, but they are examples of some of the less contentious areas where we should make progress in our talks. The more fundamental issue of course is the definition of entrenchment of certain rights.

As you will recall at the last Conference, we were not willing to agree to entrenchment of self-government in the Constitution until more details were made clear. However,

in the past year, while not all the questions have been answered, we believe that progress has been made, and we are now prepared to support the entrenchment of the principle of self-government along the lines of the federal proposal. I must also point out that in our 1984 position we reject the concept of a sovereign third level government. The structure of self-government would, no doubt, be different for different Aboriginal groups in the different regions of this country. Yet, such structures would enable Aboriginal People to protect their culture and traditions and to develop better social and economic conditions for their people.

As a province, we are willing to promote self-determination for Aboriginal People as far as possible within the framework of the Canadian Confederation. We want to see that the Native People of Canada have a greater say in their future and accept a greater responsibility for their future. The results of such co-operation will be a better Canada and a better future for certainly all of us.

Mr. Prime Minister, in addition to self-government, issue, we believe that sexual equality, the issue, is an important one. I have observed the Aboriginal groups and individuals expound on how important it is to change the Constitution to ensure the rights of the Native women. It would seem to me that such a fundamental issue ~~should~~ be addressed. It can be argued that existing clauses in the Canadian Constitution are adequate to guarantee sexual equality, but if the fear remains among those people who are concerned, we should remove that fear.

Prince Edward Island, therefore, is prepared to



agree to the federal proposal to the amending sections if this will accomplish that task. Prince Edward Island sees this Constitutional process as one that is incumbent upon all governments and the Aboriginal People themselves to be realistic in any future negotiations so that all of us have the complementary objective of making this country a better place to live for each and every one of us.

THE CHAIRMAN: Thank you, Mr. Premier. I now welcome Premier Devine, who welcomed us with such warmth out in Saskatchewan in February. Premier Devine, would you proceed, please.

HONOURABLE GRANT DEVINE (Premier, Saskatchewan): Thank you, Mr. Prime Minister.

Mr. Prime Minister, fellow Premiers and representatives of the Aboriginal Peoples: The recent First Ministers Conference on the Economy represented a new era of consultation and co-operation in Canada. I might add, Mr. Prime Minister, that the rural and municipal governments in the Province of Saskatchewan have responded quickly to your challenge of building on strengths. Similarly, the energy agreement agreed to last week is but the latest example that work begun at the Regina First Ministers' Conference is producing positive and tangible results. As I said in Regina, the whole country applauded your historic Accord with Newfoundland on the offshore. In short, Mr. Prime Minister, your process is working.

I am optimistic that the parties at this table can build upon this new spirit to develop a process that will develop the needs and aspirations of the people of this country and continue to build on our strength. In each case,



Mr. Prime Minister, the negotiations have been difficult, but with common sense in the Chair in each instance we have seen realistic and positive results. Again, I say it is not easy but it is possible.

In Saskatchewan, the people are committed to the enhancement of the position and role of Aboriginal People of Canada. Before we look into what is possible at this First Ministers' Conference, I believe we need to remind ourselves where we left things in March of 1984. I say this because some believe we did not move fast enough in 1984. At last year's Conference I made commitments on behalf of Saskatchewan residents. In our sincere desire to seek real results for Aboriginal communities, Saskatchewan set out to work closely with the federal government and Aboriginal People in several key areas over the last twelve months. I would like to give you a couple of examples.

First, in December, the Saskatchewan government established an innovative approach to the Indian Treaty land entitlement. That approach opens up a whole new range of economic development possibilities to an entitlement band. I am pleased to report that the first settlement in full, that of the Fond-du-Lac Band entitlement, has just been given approval in principle by the Government of Saskatchewan.

Second, with regard to the Metis, who have such an important position in the history and in the contemporary life of Saskatchewan, the province has recently committed funds to the Metis for the purpose of purchasing land at Batoche, an important and symbolic act.

Three, we have brought to this forum the results

of the joint work undertaken by the Association of Metis and Non-Status Indians of Saskatchewan and the Government of Saskatchewan on preferred approaches to Metis identification and enumeration. At this Conference, the Province of Saskatchewan hopes to see an agreement reached to begin all party work on this basic and fundamental issue.

Four, at present, Aboriginal People in Saskatchewan also have under their control four post-secondary educational institutions, seven economical development institutions operating at both the regional and provincial levels, and an agreement now to study the feasibility of Indian justice systems within the context of our present system.

Five, in conjunction with the private sector, federal, provincial and municipal governments, the province has funded 116 Indian economic developments projects with millions of dollars. Most of these projects have been mounted at the Band level and they have been instrumental in the development of many new Indian enterprises. While people living on reserves are technically and legally a federal responsibility, the people of Saskatchewan view them as Saskatchewan people. Therefore, they are treated accordingly.

Mr. Prime Minister, we are committed to doing more. For example, the Government of Saskatchewan recently released a policy paper on Aboriginal Economic Development. In the paper, the Government of Saskatchewan has committed its resources to the active development of economic opportunities of Aboriginal Peoples in the province. Now, you might ask, Mr. Prime Minister, why I go through these few examples. You

may say that that is all very nice, but this forum is concerned with Constitutional change and Constitutional matters. I suspect that is true, but I would suggest that Constitutional change should not be viewed in abstract or in isolation. Social and economic and political and institutional change go hand-in-hand in the Province of Saskatchewan. We must be sure that we do not suddenly forget or neglect the development of the economic and human resources that will provide the foundation for self-sufficiency of Aboriginal communities, whether they be on reserves or in downtown urban neighbourhoods. And, we should not lose sight of the American experience. Although the self-government of an American Indian is recognized in law, we can point to only a handful of American Indian tribes who are economically self-sufficient. We do not see the U.S. experience as the Canadian solution.

The agenda we have before us today presents us with some significant opportunities and also with some significant challenges. The isolated concept of Aboriginal self-government would clearly be the most significant and the most difficult issue that we must address at this Conference, and several of my colleagues have mentioned it. The definition of self-government changes by province, by region, by group and between rural and urban communities. Significant differences of opinion continue to exist on the meaning of Aboriginal self-government at this table right now.

Saskatchewan people have been of the view that there should be a greater degree of consensus about the meaning and implications of Aboriginal self-government before it is



cast in stone. Thus, Saskatchewan has preferred to deal with the question of Aboriginal self-government through a political commitment. Let there be no doubt. I understand the symbolic significance of a constitutional change.

In the document we tabled in Toronto, we outlined several specific commitments which we wanted to see take place. First, a commitment to negotiate more participation in economic and political decision-making which affects Aboriginal People including, where appropriate, the establishment or recognition of various institutions of self-government. Second, a commitment to complete an enumeration of Aboriginal People by 1987. Third, a commitment between parties at this table to define the future roles and responsibilities of governments in relation to Aboriginal People, and a commitment that all this be undertaken between 1985 and the Conference in 1987.

Mr. Prime Minister, I believe that these commitments by people in Saskatchewan are real and represent common sense progress. Last night we received the final version of the federal proposal, and we were very pleased to note that a good deal of what we have talked about over the last few months has now been incorporated into your proposal. In particular, some of the factors that we think are important in considering the development of Aboriginal self-government have been now reflected in the federal draft.

In relation to a proposal for an amendment, we can see that many of the concerns which we and others around this table have expressed at earlier meetings have been taken into consideration. Mr. Chairman, we congratulate you and your officials on your sincere efforts to be responsive to the very



real concerns which all participants have expressed.

I wish I could say, Mr. Prime Minister, that all of our concerns have been looked after in this most recent draft that we received yesterday afternoon, but that is not quite the case. We still have a number of very sincere and real concerns relating to (1) the nature of the undefined commitment which the amendment would require us to undertake; and (2) the possibility that courts might be invited to interfere and intervene in the way in which that commitment is acted upon. It seems to me, Mr. Prime Minister, that these need to be discussed in some detail, and I believe this is the place to do it. I am quite prepared to elaborate on these concerns later in the Conference at any time.

Mr. Prime Minister, I am not a man who seeks confrontation. I cannot think of anybody else in Canada who I would rather co-operate with than the Chairman. I prefer a hug to confrontation -- give me a hug. See, it works every time.

I return to my opening comments. In previous negotiations, Mr. Prime Minister, there have been serious and honest differences in discussion, but in my view, common sense has prevailed. In each instance, success has resulted in positive results.

I believe that that can happen at this Conference, and I look forward to the discussion.

THE CHAIRMAN: Mr. Premier, you are going to get a hug and not a shrug, I guarantee you that.

I thank you for your thoughtful remarks. In the spirit of Mr. Levesque, we will invoke the words of Isaiah and we will reason together. I am satisfied that in good faith, we will come out of this with something very helpful.

Premier Lougheed mentioned, at the Regina Conference, that we not follow necessarily any preset patterns of speaking. While I will be going about the table asking everyone to ensure everyone gets involved, from time to time I may derogate from old traditions, but that is not done with malice; it is to accommodate the more free-wheeling style initiated by Premier Lougheed and others in Regina.

Premier Bennett, please, speaking of hugs.

HON. WILLIAM BENNETT (Premier, British Columbia): Thank you, Mr. Prime Minister and my fellow Premiers, with a special welcome to the new leader of the Government of Yukon,

and of course, representatives of the Northwest Territories, who arrived with me well after midnight in Ottawa early this morning, and of course distinguished representatives of the Aboriginal Peoples.

Let me extend a special welcome to you, Mr. Chairman, in this your first Constitutional Conference. I am sure you will find these two days to be a worthy challenge to your already proven considerable negotiating and mediating skills. The issues before us are complex but, as always, in any negotiation, the possibility for compromise exists. I wish you well as Chairman in this and succeeding Conferences.

You are, of course, not only Chairman of the Conference, but you are also head of the federal government and its delegation; you are its chief spokesman. I mention this because it is necessary to recall two factors of importance. First, that the existing Constitutional responsibility for Indians and lands reserved for Indians lies exclusively with the federal government, Mr. Chairman. Secondly, any proposal for Constitutional change goes nowhere, under the amending formula, without the full support of the federal government.

Once again, I want to add a special welcome to the members of the four national organizations that represent the Aboriginal Peoples of Canada. I am pleased to see how many of their numbers have come from my Province of British Columbia.

This is the third in a series of four First Ministers' Conferences to include on its agenda issues of concern to the Aboriginal Peoples of Canada. In specific terms, the agenda contains those subjects put forward by the Aboriginal representatives several years ago and not dealt

with conclusively at last year's Conference.

I think we would do well to remind ourselves that Constitutional change should never be considered an end unto itself. The task that we all share around this table is to take the necessary steps to preserve and enrich the Native cultures of this country and, above all, to provide Native People the opportunities -- be they economic, education, health and other amenities -- that most other Canadians enjoy. Shortcomings in the past have not necessarily been created by the existing Constitution, nor can they necessarily be alleviated by Constitutional amendment. A re-shaping of attitudes, and a re-shaping of government policy and legislative initiatives may prove to be equally as important, if not more important, in addressing Native aspirations than Constitutional change itself.

Mr. Chairman, our government has been involved with the federal government in discussing a range of claims. We have been involved in resource revenue-sharing and allocation agreements, as well. So while we are focusing today and tomorrow on the Constitution, let us bear in mind that within our respective jurisdictions we have, the Indian People have, existing opportunities to enhance the manner in which we live and work together.

British Columbia supports the extension of equality rights to both Native men and women. At the same time, however, we are conscious of the interests and concerns of our Native communities in this matter, and approach this question of Constitutional entrenchment with the greatest sensitivity.

British Columbia also supports the concept of well established Indian communities having more direct control



over their own affairs. We are, therefore, generally supportive of moves to make existing Indian communities more autonomous and less subject to the dictates of a bureaucracy that in many cases -- and particularly to those communities in British Columbia -- are many thousands of miles away from both the bureaucracy in Ottawa and the communities in our Province of British Columbia.

The Conference may be interested to know that the Province of British Columbia took action as early as 1969 to achieve practical and workable measures of local autonomy for Indian communities. I refer to an amendment to the Municipal Act of British Columbia, which permits the residents situated on a reserve to be incorporated as a village municipality. Sixty per cent of voting members must agree. The letters patent which would be issued by the provincial Cabinet would spell out in full the degree of local autonomy in those circumstances.

Mr. Chairman, at last year's Conference, British Columbia was not in agreement with constitutionalizing the notion of self-government for our Native Peoples. Our position at that time, as it is now, is -- contrary to Premier Pawley -- we feel that we must define and then sign, not the reverse. But to misinterpret this position as indicative of opposition to the notion itself -- as some did last year -- is both inaccurate and unfair.

Since last we met, I sense there has been some progress toward a somewhat greater understanding by all of us of the issues and implications arising from certain subjects on the agenda. I note with particular interest, Prime Minister, that your Ministers and officials have made some

progress in defining the concept of self-government in the resolution proposed, by way of specifying that any institutions of Native self-government must be accommodated within the context of our federal system.

Nevertheless, I would be less than candid if I did not indicate that, from British Columbia's perspective, the resolution that has been prepared for this Conference falls short of that minimal level of precision that, in my view, is prerequisite to entrenchment as part of the fundamental law of this country. A great deal more clarification and/or negotiation is required before a decision can be made whether provisions should be added to the Constitution.

I would add my voice to those who believe we should make haste with prudence. Perhaps if we cannot define fully, Prime Minister, what Native self-government is, we should turn our minds to agreeing what Native self-government is not. To make this process more concrete and less theoretical, it would be preferable to pursue concrete negotiations and to develop specific framework legislation prior to, and not subsequent to, Constitutional entrenchment.

I make this suggestion because British Columbia continues to believe it would be unwise to entrench in our Constitution provisions that are undefined, ill-defined or not acceptable to the various parties that have an interest in these matters.

At the same time, I want to make it clear that British Columbia does not reject out of hand the entrenchment in our Constitution of one or more forms -- one or more forms -- of self-governing institutions. Given the nature of our country, the nature of our regions, I think it is possible to

define one or more forms of government which would suit all of the situations that may present themselves.

Mr. Chairman, there is a new mood in this country -- a mood of reconciliation and partnership. In no small measure, this new mood is due to your leadership and the tone you have set as Prime Minister. It was evident at the First Ministers' Conference of the Economy, and it has been evident in discussions that have taken place under your Prime Ministership. In the language of negotiation, you can take this statement that we have made today, Prime Minister, as a signal -- a signal that my Ministers and I are prepared to participate with you and others over the next two days and beyond, if necessary, in search of mutually agreeable language to define what the concept of self-government is, what it is not, its implications and whether or not it should be entrenched in the Constitution at this time.

We came to this Conference in order to fulfill that task. Prime Minister, again, with your considerable mediative skills and your ability to search for and find the right words, I am sure we can come up with those definitions. Thank you.

THE CHAIRMAN: Thank you, Mr. Premier.

In applying that to the problem at hand, I would not read anything, I want to assure you, sinister at all into what you have said on behalf of British Columbia -- not at all. This is what a Constitutional Conference is all about, to try and harmonize different points of view.

Having said that, I want you to know, Mr. Premier, that I do not, for a second, view you as being in



opposition to the resolution. I put you down as undecided, and I have to work on you.

HON. WILLIAM BENNETT (British Columbia): Prime Minister, the people of British Columbia, in putting forth our views, have not put you down as undecided, but as co-operative in supporting the British Columbia view.

THE CHAIRMAN: I appreciate that.

Premier Lougheed.

HON. PETER LOUGHEED (Premier, Alberta): Prime Minister, this is a very difficult and complicated subject, with strong personal feelings by many citizens. I believe at the outset I would like to try to communicate to you, sir, and through you to the Conference my assessment of the views of the citizens of our province generally towards the challenge that we have here.

It is my reading of the citizens of Alberta that they would like to see the Indian People of our province and the Metis People of our province having more say over their own affairs, having more control over their own destiny, being less and less involved with the bureaucracy of both of our governments, and very much trying to respond to their desire to have autonomy over their own affairs. That is the mood that I read from the citizens of the Province of Alberta that I represent.

But tied to that is also the view that it has to be done in a way that is fair and equitable to all concerned, including to the neighbours of the citizens who are involved. So there has to be fairness and equity; there has to be a recognition of the implications and the consequences.

I would like to turn our minds back, for those



of us who were in this room, Prime Minister, to the provisions that were involved in the discussions of November 1981 that led us to this Meeting and to others. I am sure in your review of it, Prime Minister, you will recall that what we had in the Constitutional Accord of November 1981 was Section 35, which provides for the existing Aboriginal and treaty rights, that the Aboriginal Peoples of Canada are hereby recognized and affirmed. Mr. Prime Minister, that was an important provision in the sense of the existing Aboriginal and treaty rights, in recognizing and affirming them.

Then we went on -- and I was part of that -- to the second part of Section 35, which describes the Aboriginal Peoples as including the Inuit, Indian and Metis Peoples of Canada. I thought it was important, and I still do believe very important, that the Metis People were included for the first time in the Canadian Constitution by way of direct reference.

We then look at Section 37 that we discussed. In Section 37, in November of 1981, we discussed a First Ministers' Conference, and within that Conference would be included on the agenda an item respecting Constitutional matters that directly affect the Aboriginal Peoples of Canada, including the identification and definition of the rights of those people. The operative words are "identification and definition". That is really what we had believed, and still do believe, this process is all about.

I have been concerned -- and I expressed this in 1983 -- with the process, because as the process has gone on, I am not sure that in certain areas some progress has been held

back, in other areas or other fields, but that is it. We are here and we are trying to grapple with the situation.

Prime Minister, the important point -- and others have mentioned it, but I think it needs to be stressed again and again -- in each one of the 10 provinces and the two territories, the situation varies widely, varies substantially. I think that has to be recognized.

The position that I am about to express is going to be no surprise to you, Prime Minister, or to your colleagues, or to the table. We have been consistent on the position throughout. Our Ministers have been consistent in the discussions with your Ministers.

However, I want to start, first of all, with the situation with regard to the Indian People within our province. As you know, Prime Minister, within Alberta, we have Treaties 6, 7 and 8; we have the Indian People of our province who have treaty rights. The view of most -- I think it is fair to say "most" -- of the Indian People of our province is that their relationship in terms of the establishing of their rights, moving towards self-government, should be directly with the federal government, that the treaty rights fall to the federal government. That has been the position that most of them -- and I think you are aware of this -- have candidly taken.

Mr. Prime Minister, I have thought a lot about it. I have sat here now for my third conference; I have been thinking about it as I have been listening, and I am not sure that they are not right. This is a difficult process for them, involving 10 provinces with entirely different situations. I am not sure they are not right, but perhaps the Indian People of

our province, in terms of working out what they want, should work it out with the federal government.

I look at the situation in our province. I look at the Constitution as it is today. You know that under the Constitution, under Section 91.24, the exclusive jurisdiction with regard to the Indian People and to the Indian lands rests with the federal government. They do not have to go through the provinces. It rests with the federal government.

Within our province, what is the situation? Well, there we consider them as Albertans fully within our province, those that with the various bands. They do not pay income tax to the province; they have the resource-revenues in the areas of their reservations flowing to them. They are fully entitled to vote. We have made decisions, in the years that I have been in office, with regard to services. I remember, Prime Minister, program after program, where we have come to a certain point and said, "Well, should this apply with regard to the Indian bands?". Somebody may correct me later, but with very, very few exceptions, they said "They should apply to the Indian bands within our province". That has occurred right across the line in terms of the programs that we have developed, whether it is senior citizen lodges, whether it is a rural system, whether it is recreation programs, a multitude of social programs, we have said, "Yes, they should apply".

I want to give you one example of the nature of this problem jurisdictionally, at least in our province. I met with the Indian Association of Alberta a few years ago. Essentially, since that time, we have been working directly as a provincial government on a band-to-band basis. I think we

have been making, candidly perhaps, more progress that way.

We had a discussion at that time about the question of roads within the reservations and what should be done. Our people within our government were saying that we do not have clear title, so we cannot really do things by the way of building of roads. Yet it was obvious that roads needed to be built. Well, we made a decision. I am glad that we did, and I pressed it forward. We did not need clear title. I mean, that was not necessary. Let us go in, in any event, and I think there was full concurrence of the people in the federal government of doing that, and let us build the roads, even though clear title was not required.

I think that is what a provincial government should do. We have done that and continue to do that with regard to programs on the Indian reservations within our province.

Now, off reserve they are involved and should be involved -- and I am sure you would agree -- to the full responsibility and full benefit of the laws of the Province of Alberta when they are off reserve.



So I guess what I am saying, if you like, that I know the desire of the Indian people to have somehow within either a Constitution or in some other way the longer term protection of their rights, the movement toward self-government, and there surely should be a way, Prime Minister, that we can accomplish that without involving the jurisdiction with the provinces and with the federal system, and that is a challenge, I think, for your government to consider. If you want to, Prime Minister, work something out with the Indian people, at least in our province, that involves complete self-government, full self-government, we will co-operate with that after you have completed that and we will work it out. We will sit down in that case--I guess we would not sit down with you, we would sit down with the various bands and say, all right, you have got your full self-government as far as the bands are concerned, what would you like to interface with in terms of our province and programs. And then we would sit down and work it out with them and I think that that would be a positive way of doing it.

So I say, if you want to go as far as complete full self-government with regard to the areas involved, fine, that is a decision and responsibility of the federal government and I leave that to you.

Now, we do not have in our province, as you know, Inuit, we have a few that have moved there for various reasons but essentially it is not an issue within Alberta, but we have a number of Metis people. We have in our province developed a very significant situation with regard to Metis settlements. We have eight of

them. They cover a very large area in terms of the number of acres that are involved. We have tried to work this out with them and defined in terms of the settlements, and I want to come back to how we are working on that, but past the settlements within our province we have just a very significant divergence of circumstances. We have in some cases an isolated community that maybe very largely, if not completely, Metis. We have a number of communities that are very much mixed, that have Metis people in the community or people that consider themselves as Metis and we have others within the Province of Alberta, and we have a very large number of them living in urban centres within our province. So we have quite different situations in all three circumstances.

Now let me go to the settlements. As I said, there are eight of them, 1,280,000 acres and they are unique in Canada, and they raised with me and with others, we met with them, a very important concern. They said, Premier, there was an Order-in-Council passed many years ago before our government was in office which just simply wiped out their settlement, and they are concerned about that and they are pressing us to come forward to find a way in which they can be protected from that not happening again. I am sensitive to that, I agree with that. We have had Dr. Grant McEwan, our former Lieutenant-Governor, one of our most distinguished citizens, lead a group that has studied the Metis settlements and the relationship and produced a report for us. I was told a few weeks ago by the Metis settlement people that they fully concur with the recommendations of the report. Now, there are some problems here on a land transfer. In other

words, do you transfer it collectively, Prime Minister, or individually to the people? And if you transfer it collectively then who is determining who can live on the particular settlements. That is a question; I think we can work that out. We would like to see them move very quickly too for local government, comparable to our municipal government and that is something we are working on and trying to work out with them. It is a process of ongoing discussion.

With regard to the balance of the Metis people within our province, I have mentioned a wide diversification that ~~is~~ involved. I have discussed this matter with the Metis association. We hold somewhat different views but we have also dealt directly with a number of communities who have different views again as to how we should work it out. We have just been involved in a multitude of services. We were taken aback a year ago with regard to the view that jurisdiction over the Metis should be with the federal government and we have been proceeding on the basis that it was a provincial responsibility for many years. Regardless of that, we are proceeding with programs for the Metis people, and we have to work on these in isolated communities particularly.

We developed a land tenure program, yes, it could be improved, but we are moving it forward with regard to the Metis people in our provinces. We have developed health facilities and training facilities, housing programs, a heating allowance, water and sewer, culture and recreation, a whole ambit, Prime Minister, of programs. We are in the process right now with our Metis people They want to have,



and I can understand it, more say with regard to education. We have got the northland school division which is a very large part of Alberta but at the moment now, on an elected basis, the native people have the majority with regard to that area in terms of the vote, as they should, and that in essence is self-government as well. One of the things that they presented us, Prime Minister, is the history of the Metis people and the Aboriginal Peoples and that we need to do more in our education process to show that that reflects that in our curriculum and I think all provinces are working on that. Child support is a particular issue that we have been involved in and they want a bigger say in that. In the employment area with regard to the Metis people, we have established a number of organizations in co-operation with them. The business association native corporation, the native venture capital one, forestry career incentive program, fire-fighter programs, job creation programs, directly involved with them and working with them on a program basis.

Well, that is the relationship as it is in Alberta. So we are here today and you presented a proposal regarding self-government but it raises obviously a multitude of questions. There is a reference to groups, well, which groups? And who qualifies for those groups? And who decides who qualifies, and is it mandatory to join, to be involved, and the problems of moving forward with self-government in our province anyway is, surely, we do not want to duplicate services, surely, we do not want that, how do we fund these



situations, how do we work it out in a mixed community, particular? Are we talking about sovereign government? Are we talking about situations like municipalities and are we talking differently in different parts of the country? We certainly in Alberta do not accept the fact that there should be anything other in our Constitution than two sovereign governments, the federal and the provincial level of government. But what we are talking about today and the use of the term "self-government" has a tremendous impact upon everyone of the citizens of our province, all two million and three of them, or whatever, thereof. Now, I read your proposals this morning. It is somewhat different than what had been discussed with our Ministers some time back and we got quick legal advice, and I am afraid we take different issue with your Minister on this matter.

We think there are legal implications to that proposal, legal implications that involve the courts. What are they interpreting and what is meant and so that is involved. We have got many questions with regard to how it would work. We informed the Metis Association of Alberta and the settlements a few weeks ago that we would probably not see our way to any constitutional amendment.

We feel very much, Prime Minister, in conclusion that this is, and I fully agree with the Province of British Columbia, we are not undecided on the matter, we do not see it as a situation for constitutional amendment for the reasons I have expressed. We are open to an Accord but even there we hope that there is a thorough understanding of what is involved in the Accord. Having said that, we

listen to other observations and responses over the course of the next day and a half.

THE CHAIRMAN: Thank you, Mr. Premier. I think you are quite right in being troubled by it. I suppose when we get right down to it, apart from the practical problems to which you refer, we are dealing with the age-old question of dignity and how to secure it for our native peoples. And I do not doubt for a moment but that everyone around this table recognizes that as the challenge and the moral imperative is upon us, and I guess this conference is to see if we cannot find the answer to that to accommodate this much required need to give expression to self-worth and dignity.

We are going to go, just so as I can let you know, I think we are going to try and conclude the opening statements, if we may. The leader of the Yukon, who is noted for his brevity, as is Eric Nielsen, followed by the leader from the Territories, and Mr. Levesque will have just a quick word and then we would adjourn for lunch at that time.

Mr. Phelps will you please go ahead.

HON. WILLARD PHELPS (Government Leader, Yukon):

Thank you, Mr. Prime Minister. Premiers, leader of the Northwest Territories, Aboriginal representatives. I have attended these Meetings in the past in a different capacity and it now gives me great pleasure to represent Yukoners as Government Leader at this table and I thank you for your welcome here today in that role.

For many years the Indian People of Yukon have been working with the Government of Yukon as well as the Government of Canada to arrive at a land claim settlement which will be equitable and just to all parties. We approach this Conference of First Ministers in the same positive frame of mind as the other participants around this table. Naturally one of our concerns will be to ensure that steps are not taken here which could affect in a negative way a successful land claim settlement, which will among other things help define the Aboriginal rights of Yukon Indian People. I realize we are not alone in this hope because other provinces and the Northwest Territories are also looking to positive and lasting results to land claims negotiations.

We understand the strong desire of Aboriginal People to entrench self-government in the Constitution, however we believe the definition must precede entrenchment. We are pleased that at the Meetings leading up to this Conference governments and Aboriginal Peoples recognize that definitions of self-government would vary from region to region and community to community.

In Yukon many communities are shared by Indian and non-Indian People. These mixed communities may require unique definitions of self-government to accommodate the aims and

aspirations of all. For self-government to be fair, care must be taken to protect the interests of other systems as well as to enhance the special needs of Aboriginal Peoples.

Accordingly, it is important that the provinces and territories take part in negotiations and agreements which affect them. Before the Conference is over the Yukoners watching us now will be expecting to hear that they will be a full party to any regional or community negotiations and agreements affecting our territory, and so on behalf of all Yukoners we extend our wishes for a productive and successful Conference. Thank you.

THE CHAIRMAN: Thank you, Mr. Phelps.

Mr. Nerysoo.

HON. RICHARD NERYSOO (Government Leader, Northwest Territories): Thank you, Mr. Chairman. Premiers, Government Leader of the Yukon, Leaders of the Aboriginal Peoples.

The Northwest Territories is very pleased to participate at this historical Conference.

It is important to remind ourselves of the original purpose for this Constitutional Conference process and the importance of the task which lies ahead. This Conference is about Constitutional change. It is about nation building. Mr. Chairman, this Conference will give to Canadians the right and opportunity to exercise their authority as free people to amend their Constitution as a step towards addressing the Constitutional rights of the Aboriginal Peoples of Canada. The need to do so was clearly recognized in the following words from the 1983 Constitutional Accord.



"And whereas historically and equitably it is fitting that the early exercise of that full authority should relate to the rights and freedoms of the first inhabitants of Canada, the Aboriginal People."

Mr. Chairman, I have already referred to the historical aspect of this Conference. I want now, to emphasize the "equitable" aspect as well. Unless we can find fair and equitable solutions for the Aboriginal People of Canada, our Constitution will not be complete and will not enjoy full acceptability by all Canadians.

Mr. Chairman, the Aboriginal Peoples - the Dene/Metis and Inuit - constitute the majority of our northern population and indeed our legislative assembly. Very simply, Mr. Chairman, Constitutional development for Aboriginal Peoples is our Constitutional development as well. Our circumstances in the Northwest Territories make this very clear, but the same is true for the rest of Canada. In the Northwest Territories we cannot ignore the need for institutions which reflect the cultural, social, economic and political diversity of our region. Our future, like that of the Aboriginal Peoples, depends on the strength of our convictions, our patience, determination, and ability to convince the rest of Canada that by completing this unfinished business, Canada will only become stronger. We look forward to meeting this challenge because we believe that Constitutional recognition of the right of Aboriginal People to self-government is squarely within the realm of the possible.

There are those who may believe, in Constitutional terms that this country has gone far enough. In my humble opinion,

we have not gone far enough where the Aboriginal Peoples are concerned. We have all heard that the Constitution is like a living tree. It is no ordinary statute. It must grow and adapt to keep pace with the imperatives which the people of this country set. A branch of our history was cut off by former Constitutional architects who determined that the descendants of the first inhabitants of this continent would be excluded from the Canadian Federation. This is our opportunity to graft that branch back on the tree. The supreme law of this country - the Constitution Act - requires that we do so.

Mr. Chairman, I believe that it is most important not to lose perspective in this Conference. The Aboriginal People of Canada are seeking an expression of their right to self-determination, a principle that all civilized and free nations, including Canada, subscribe to. The Aboriginal People of Canada are seeking a statement in the Constitution to the effect that they have the right to self-government. There is concern that the full meaning and scope of the right to self-government is not known, as such it should not receive Constitutional recognition. With respect, Mr. Chairman, the concern is in my view ill-founded. The meaning and scope of the right to self-government is a matter for negotiation since the exercise of such a right will vary from jurisdiction to jurisdiction. Had the fathers of our Constitution insisted on knowing the full meaning and scope of terms such as "peace, order and good government" or "property and civil rights", I suggest that we would not have had Canada as a nation. Mr. Prime Minister, this is the time and opportunity to show vision and statesmanship and to understand the real nature of what we are engaged in. We are fortunate that we shall have the opportunity to sit around a conference table and attempt

to work out solutions to our Constitutional and political questions. We are the envy of numerous nations that do not have any such opportunity and where violence and force rather than reason, justice and equity are the order of the day.

To conclude let me stress the need for continuing public discussion on this important matter. Our legislative assembly, as I indicated which already has a majority of Aboriginal Peoples has already put in place a public process for Constitutional development which your government has publicly supported and we welcome any continued participation along with the federal government in that public process.

Further, Mr. Prime Minister, I must say that all Canadians must be made aware of the need for Constitutional development in Aboriginal matters. The public must know and understand that the participants around this table are attempting to build a stronger Canada which will be an example, not only to the people of this country, but to the world as well. Mr. Chairman, I thank you for allowing me to make those initial comments.

THE CHAIRMAN: Thank you, Mr. Nerysoo.

Avant de céder la parole brièvement au Premier ministre Lévesque, j'aimerais vous faire lecture d'une lettre que je viens de recevoir de la part du Premier ministre de Terre-Neuve et du Labrador.



record a letter I have just received from Premier Peckford.

"My dear Prime Minister:

I am writing regarding the First Ministers' Conference on Aboriginal Constitutional matters to be held in Ottawa on April 2 and 3, 1985.

In order that you are fully aware of the position of the Government of Newfoundland and Labrador with respect to the issues that will be discussed during the Conference, I would like to state for the record the position we have taken.

I am pleased to advise that the Government of Newfoundland is prepared to support a Constitutional amendment which will provide for the right of institutions of self-government by Aboriginal Peoples within the context of the Canadian federal system as defined by agreements between the federal and provincial governments and the various Aboriginal groups throughout the country. The Government of Newfoundland recognizes that there may be a difference of opinion among provincial governments as to the need to provide for a Constitutionally-entrenched obligation to negotiate. There is a proposal that such an agreement be more in the nature of an accord between the organizations representing the Aboriginal Peoples of Canada. However, we feel that we should now begin to give a direct Constitutional reference to the concept of self-government as that may be defined. The Honourable Robert Aylward may wish to make a statement elaborating further on the province's position during the second day of the Conference. I trust you will find a statement of the position



of the Government of Newfoundland to be of assistance to all participants at the Conference in coming to a meaningful resolution to the question of Aboriginal self-government.

Yours sincerely,

A. Brian Peckford, Premier of Newfoundland and  
Labrador.

I will file this, Mr. Secretary, with you.

Je demanderais à monsieur Lévesque, qui m'a déjà prévenu avant-hier, si je ne m'abuse, de certaines obligations qui l'attendent à Québec, de prendre la parole aujourd'hui.

L'HONORABLE RENE LEVESQUE: Brièvement, monsieur le président, je voudrais m'excuser, excuser aussi monsieur Johnson qui a dû partir ce matin, parce que nous devons rentrer à Québec à cause de notre situation éminemment confortable avec trois voix de majorité et, comme on n'ajourne seulement que le Jeudi Saint, eh bien, il vaudrait mieux être sur place.

Comme disait monsieur Wilson hier, sur un autre sujet, c'est la politique.

It is pure minimum of courtesy that I want to apologize, like Mr. Johnson this morning, for having to hightail it back to the shop in Quebec this afternoon, pending possible by-elections that we intend to meet with our usual efficiency. We have a healthy majority of three in the House in Quebec, but this gives me the advantage of introducing -- and I think it is the first opportunity for many of you to meet the gentleman on my left who will be with the Conference until the end -- Mr. Elie Fallu. A better representative would be hard to find because, among other things, he is responsible for relations between citizens and government in Quebec. I

think this is a setting for that kind of flexibility.

By the way, just in case he forgets and shows his face before Thursday, Mr. Fallu will not leave before an eminent Liberal observer of ours, the honourable member for Mount Royal, Mr. John Ciaccia-- they are not paired, but accidentally it happens that way. Thank you very much.

THE CHAIRMAN: I just wanted everyone to know that I offered the Premier a few members for the vote, but he said he doesn't believe in equalization.

HONOURABLE RENE LEVESQUE: Don't start that!

THE CHAIRMAN: Given that we have gone somewhat over time, would 2:30 meet with your approval.

Merci à vous tous. Thank you everyone.

--- Luncheon Adjournment

FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

---

CONFERENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

---

(unrevised and unofficial)

Afternoon Session of  
April 2, 1985

COMPTE RENDU TEXTUEL

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(non révisé et non officiel)

Séance de l'après-midi  
du 2 avril 1985





--- Upon Resuming

THE CHAIRMAN: Good afternoon, ladies and gentlemen.

Those people who persist in giving interviews at the end to the television cameras will not be recognized by the Chair.

This afternoon the first item on our agenda is, as we agreed, the issue of self-government. I think we can get into it in a fairly freewheeling way. I would like to briefly set out some thoughts and then invite your comments.

Afin de situer quelque peu le problème, de le cerner, du moins, je me proposerais tout simplement de dire quelques mots.

I think we can agree that this particular item is the key to a successful Conference and to the discussion and negotiations of the other issues that lie before us. It is clear that only if Aboriginal Peoples assume more responsibility over their own affairs will they be free of the burden of dependency imposed upon Indians by the Indian Act or imposed on Inuit and Metis by policies rooted in Indian Act attitudes. That is why, I suppose more than anything else, the federal government agrees with the proposition that without Constitutional protection of rights of Aboriginal Peoples there cannot be a lasting relationship of trust between Canada's Aboriginal Peoples and governments. We should not be surprised. I hope none of us is surprised by the legitimate absence of trust with regard to Aboriginal Peoples vis-a-vis government. I hope that none of us will express dismay or alarm at that. It seems to me to be an entirely human response to a situation

which has developed over many years and for which we have very little reason to be proud. That is why the new federal government is committed, with your help, to securing agreement with the provincial governments and with the participation of Aboriginal leaders on an appropriate Constitutional amendment relating to self-government.

Accordingly, it appears to me that the real question today is how to blend the desire of the Aboriginal Peoples for Constitutional entrenchment of the right to self-government with the desire of governments for sufficient definition of those rights. I believe that once we begin to look at concrete options there is a lot of common ground. There are many things that bring us together.

In December of last year, Mr. Crosbie tabled a draft proposal for the Constitutional recognition of the right to self-government. The proposal stipulated that the definition of that right should be contained in agreements to be negotiated between governments and Aboriginal groups. Since then, a further Ministers' meeting and several official meetings were held at which this proposal and many others were discussed, I think very intensively and very openly. I know that these deliberations were productive and that all of the participants have worked very hard and in clear good faith.

On the basis of these discussions, the federal government prepared a draft Accord, which was distributed to you yesterday. The draft, let me say clearly, is not perfect. The draft submitted to you yesterday contains what I think is a possible approach to a Constitutional amendment relating to self-government for Aboriginal Peoples, while recognizing as

well some of the legitimate concerns we have heard today which, if not fully accommodated in the draft Accord, can be, I think, as time goes on.

The first element of this approach is the recognition of the rights of Aboriginal Peoples to self-government within the Canadian federation which would be set out in negotiated agreements. The second element is the commitment of the federal and provincial governments to enter into negotiations with the representatives of Aboriginal Peoples aimed at concluding these agreements respecting self-government. Third, the amendment provides that the rights of Aboriginal Peoples contained in these agreements would receive Constitutional protection if the parties agree. You will note in this latter regard that the draft Section 35.02 provides that both Parliament and the provincial legislatures concerned must consent prior to any agreement being given Constitutional protection. The political Accord which accompanies this proposal elaborates upon the framework within which the negotiations will take place including a list of the objectives and relevant factors to be considered. Those provisions of the Accord which relate to Constitutional amendments have been highlighted for you. We can deal with those, but they have been particularly highlighted in the draft Accord.

J'aimerais vous rappeler que seul le résultat compte, c'est-à-dire arriver à une entente sur la modification à apporter à la Constitution concernant l'autonomie gouvernementale des autochtones.

La solution que nous vous soumettons résulte des efforts que nous avons déployés en vue de fondre les

différentes positions des participants en une proposition qui leur semble acceptable.

Dans mon esprit, aucune formulation n'est immuable. Si les participants ont quelque objection, je les encourage à nous faire part des améliorations qui leur sembleraient souhaitables, compte tenu de l'objectif que nous nous sommes fixés, c'est-à-dire d'arriver définitivement à une entente.

Le gouvernement fédéral est d'avis que la reconnaissance constitutionnelle du droit des autochtones à l'autonomie gouvernementale, sous réserve de la définition de ce droit dans les ententes négociées, conduira à l'adoption d'une approche plus mesurée et facilitera la tenue de discussions pratiques au niveau des collectivités ou des régions. Les gouvernements devront reconnaître que la teneur des discussions doit varier selon la province, la région ou même la localité, et selon les besoins et les aspirations des différentes collectivités autochtones.



Both governments and Aboriginal leaders will have to realize, I think, that the move toward self-government signifies a long-term commitment by all parties. Self-government cannot happen overnight, because all governments face constraints imposed by the current economic environment. Self-government should happen over time, because the complexity of this endeavour demands that all participants move forward at a deliberate and measured pace to ensure the best possible outcome. If we press on today, significant tangible benefits will result. Self-government will mean that Aboriginal Peoples are now taking responsibility for their own decisions rather than having decisions made for them. You or I would rebel at the notion in 1984 that a decision is going to be imposed on us that affects our very lives by bureaucrats sitting in a department in Ottawa. If that offends my nature and my sense of democracy and fairness, I know it offends yours. This is what it is all about; simple dignity. I ask you to bear this in mind. The decision that we make together, if we can come together on this, will mean self-reliance rather than dependence. It will mean Aboriginal pride and a sense of self-worth. I believe that if governments in Canada are willing to take this step in recognizing the right to self-government in the Constitution, it will do much to nurture the creative energies of Aboriginal Peoples and to ensure ultimately their full and generous participation in Canadian society.

I would now invite comments from participants on self-government provisions of the draft Accord relating to the schedule which was distributed to you. Perhaps we could begin with Mr. Watts.

MR. GEORGE WATTS (Assembly of First Nations):

Thank you, Mr. Prime Minister. I would, first of all, like to start off in a positive way. It is certainly encouraging to hear all this respect that is being paid to Native Peoples by the various Premiers of this country and yourself. I was sitting here thinking that I have already lost my Rodney Dangerfield complex sitting here in this room this morning because I am getting so much respect. We have to somehow transfer that respect into some concrete solutions for Native Peoples. I want to encourage you to continue to use your sensitive words to try and encourage the provinces to understand our situation and our need for Indian self-government. I appreciate your history as a negotiator, and I wanted to suggest to you that possibly you could slip me 250 million bucks so that I could offer it to the Province of B.C. for their pipeline and maybe they will move on Indian self-government. I do have some other words to say to the Province of B.C. I think it is a little unfortunate that the Premier is not here. I guess he heard that I was going to speak. However, I think his two Cabinet Ministers will take good notes for him.

I want to approach what the Premier said this morning on a positive basis. He asked us what Indian self-government meant, what it was, define it, or at least tell you what it is not. So, I would like to do a combination of both of those and tell you what it is and what it is not.

First of all, Indian self-government is not having all the non-Indian people leave the Province of B.C.

Indian self-government talks about a coexistence of Aboriginal Peoples and non-Indian people in the Province of British Columbia. It does not mean that there will be one non-Indian person who is going to be brought economic harm if Indian self-government becomes a reality. Just as important, Indian self-government also to us would mean that no longer would we have our children taken out of our homes, that we would have a system within our own government whereby we can look after our children. Indian self-government to us is not a continuation of the Department of Indian Affairs continuing to run our lives on our reserves. Indian self-government to us is not having multi-national corporations border on our reserves and destroy the resources which we live on. Indian self-government is having a fair share of those resources so that we can have a government that is independent rather than having the present situation, which is not Indian self-government, where we have a welfare state in the majority of our communities. That is not Indian self-government.

Indian self-government is not having the federal and provincial governments having an educational agreement about our children. Indian self-government is the Native communities controlling their own education, because the system has not worked for our people. We could show you a book of statistics if you want to talk about what has happened to Indian people, but I don't think that is going to get us anywhere. It is not by accident that Indian people have come to the position that they are stating today about Indian self-government. Indian self-government to us is that we decide who are and who are not members of our community. Indian



self-government is not having the province tax our reserves and not provide any services to us. Indian self-government is not Indian people paying, for instance, gasoline tax but having the grader stop at the reserve when they are ploughing the road. Indian self-government to us is that Indian people will start to receive fair treatment in this country. We believe that we have a very strong relationship, a legal relationship with the federal government. We believe that for our people that relationship would continue on.

Indian self-government to us is not having the province tax our people in all different manners, yet when it comes to services for Native people they revert to the very Constitution which they say Indian people should not be so concerned about, the Section 91.24 in the Constitution. They say: "I am sorry. You are a federal responsibility even though we are collecting taxes off you." Those types of arrangements would come to a halt under Indian self-government.

Indian self-government to us is not having the province take 50 per cent of the revenue from resources under our reserves. In fact, we are looking for an expanded land base. Unlike some other people, we do not have a very large land base in British Columbia. In fact, even though we have 5 per cent of the population of British Columbia, we have less than .1 per cent of the land in British Columbia. Indian self-government to us would be an expanded land and resource base.

Mr. Prime Minister, I could go on for ten hours here but we have done it before. I hope people will start to take notes so that they can memorize what Indian self-government is in this country so that we do not have to continue to debate what is and what is not self-government for Native Peoples.



I hope that as we continue on over the next day and a half, perhaps those things which Native Peoples are saying are Indian self-government are acceptable to Canadian society so that we can have a rightful place in this Constitution.

Mr. Prime Minister, in closing, I just want to encourage you or your colleagues that perhaps with the document you have tabled there needs to be an elaboration on what you are saying in your proposal too. Thank you.

THE CHAIRMAN: Thank you, George. We will go to Premier Hatfield of New Brunswick.

HON. RICHARD HATFIELD (New Brunswick):

Mr. Prime Minister, before we broke you mentioned -- and you have elaborated on it eloquently at the beginning of this afternoon's session -- that what we are really talking about here is not self-government at the outset. What we are talking about here is equality. There are people in Canada who have powers and who have a measure of control over their own destiny through our Parliamentary systems of government. There are other people in Canada who do not have power and who are part of the responsibility of the Department of Indian Affairs. As you say, most Canadians -- I am certainly one of them and you are obviously another -- could not stand for that.

I must admit that I admire the patience of the Aboriginal Peoples in this country up to now, but I do not think that patience is going to continue. It has been made very clear that they are going to use the resources that are available to them -- as Sandra Lovelace used the resource that was available to her -- to embarrass the Government of Canada or embarrass Canada, to embarrass Canadians to make a change.

I must say that occupying the position that I do in our political system, I do not like to be shoved; I do not like to be pushed; I do not like to be pressured. I like to lead. I think the time has come when we must recognize that it is our responsibility, we have taken unto ourselves, and I think with a great deal of justification it has evolved that we have the power. We have now used that power to give this country full and total sovereignty. Now within our country we have a flaw; we have a defect.

The equality that is respected and cherished by the vast majority of the people of Canada does not exist for a very large group of people in Canada. That is why I feel so strongly about the need for entrenching in the Constitution, as a beginning -- and it is going to be a beginning of a long involved and difficult process that is going to require a lot of creativeness. But we have done it before. We were the first country in the British empire to do it, and we have done it in many, many areas.

I think we can do it here. I think we have to have the kind of confidence, respect and trust that I think is being demonstrated. I had said this morning that we have made some progress because there has developed a better understanding, a better trust, a better appreciation between the people who were, in one way or another, under the umbrella or under the home of the Department of Indian Affairs and under the Government of Canada.

I think we have to now recognize that they must have equality as Canadians, and they must have the same equality as other Canadians. So I do not think the issue is self-government

I think it is, as you have said, dignity. Canadians feels very strongly about that; I am positive of that.

If there is going to be equality, the people at this table have to have the right to be here, like we have a right to be here. I think the only way we are going to have that is by entrenching in the Constitution the same kind of powers that were entrenched in the Constitution and which I fought so hard for, so the people of Canada living in New Brunswick could get certain things that were important to us in New Brunswick -- nowhere else, maybe, but important to us in New Brunswick. I was able to do that because I had certain power.

Aside from the representatives of the 11 governments at this table, we are the only people who have that power. We must recognize that we are not going to keep that power because the other people at this table are going to appeal to the people of Canada for the equality of status of being Canadian, and they are going to succeed.

As I have said earlier, I would rather lead than be pushed. I know that if we do not demonstrate leadership here today, we are going to be pushed into doing what we could do with grace, initiative and creativity on our own because we believe in it and because we understand what it is to be a Canadian, and how important equality and dignity is to being a Canadian.

THE CHAIRMAN: Thank you, Mr. Premier.

Premier Miller?

HON. FRANK MILLER (Ontario): Mr. Prime Minister, this morning we had a good opportunity in our opening statements

to give our philosophical views towards the issues. Obviously we do not have, at this point, seven provinces agreeing on the entrenchment of this right.

May I suggest that that may not happen in the whole course of the day. I would have hoped that we could allay the fears of provinces that are afraid they are losing something in the process, just as we can allay the fears of some of the Aboriginal groups who are afraid they may lose something in the process.

Surely, we should get down to the detail of looking at what is before us to see if those of us who have agreed that we would like to see a Constitutional entrenchment can live with the wording. If we can get that far, it would at least give those provinces who are considering their position some chance to deal in the concrete rather than the variable.

From Ontario's point of view, we would only have one change to the proposal Canada has brought forward. I have mentioned that this morning. That was a non-derogation part, which I suggested only because the Native Peoples of my province had feared they may lose some of the rights they believe they have at this point without such a clause. Ontario sees that as a reasonable addition, just as I would assume some provinces want some form of protection too.

So, I would simply say this: let us look at what you have put forward; let us see if it needs amendment in any major way, and if we can agree on that by those of us who have accepted the principle, I would suggest you have ways or time to discuss it with those provinces who may need to be persuaded after this Conference, if we do not do it today.



THE CHAIRMAN: After listening to Premier Hatfield and yourself, Mr. Premier, I think we are moving up all the time on the persuasive scale. I thought this afternoon, at least for the beginning, we would be fairly flexible. I know some people want to be heard in more general terms, and I am quite open. We can then get down to dealing with some specifics.

It was agreed -- or I thought it was agreed -- that at any given time, a little later on our officers or officials could meet for drafting sessions or tonight with Mr. Crosbie, magnificent in his silence -- so unusual it is. But I can tell you he is ready to break out any moment. John has offered to meet with officials tonight to deal with any concerns that may have arisen in terms of the specifics raised by Premier Miller and others.

I would like to hear from Chief John Snow now. We will move around the table then.

MR. JOHN SNOW (Chief, Prairie Treaty Nations Alliance): Thank you, Mr. Prime Minister, Honourable Premiers, my fellow Native Peoples, ladies and gentlemen.

I am here as an elected Chief of the Stoney Indian Nation from Treaty Number 7 of Alberta. I have been delegated by my fellow Chiefs to make a statement on behalf of the Treaty Indian Nations who have formed a Treaty Indian organization, the PTNA, Prairie Treaty Nations Alliance.

We want to record our thanks to the National Chief of AFN, Chief David Ahenakew, for his support of the PTNA Organization, and in giving us this opportunity to table these documents on behalf of our member Treaty Indian Nations.

These papers clearly explain our stand on why we are not participating in this Constitutional Conference for reasons that we want to explain.

We do, however, want to present our position regarding our treaties. To us, as Indian People, the sacred Treaty Agreements are of utmost importance to the PTNA members.

For the past several months, our Organization has been requesting separate representation at this Meeting. This is not an unreasonable request when you consider that the Metis National Council was granted separate seats at these Conferences, seats which they still retain, along with their original parent organization, the Native Council of Canada.

It was only late yesterday afternoon that we were informed by the Prime Minister that our people would not be granted official recognition at this Conference. We are very disappointed by your decision to deny our request to be represented as one of the Aboriginal groups at this First Ministers' Meeting today.

We want to emphasize, as Treaty People, we are separate from the AFN and the other Aboriginal groups here, and indeed, we enjoy special rights based upon our Treaties with the Crown. We are greatly disappointed that the Treaty Indian Nations' interpretation and understanding of the Treaties have not been adequately discussed at these previous Constitutional Conferences, and that this year we are not being given the kind of representation demanded by the Treaty Indian Nations.

We want to state unequivocally that the AFN does not represent the member Treaty Indian Nations of Treaty Numbers 1, 4, 5, 6, 7, 8, and 10, covering Alberta, Saskatchewan, Southern

Manitoba and Northeastern British Columbia.

We believe that the Creator placed us here on this great island and taught us to live in harmony with the seasons. We want to pass on our philosophy and preserve our heritage for our future generations. Our philosophies and traditions must be understood and respected by your governments, if there is to be a workable relationship between PTNA and the Government of Canada.

I would like to remind you that when the European nations first came over to this country, the treaty-making process was very important in maintaining international relations because of the interest in our land and its bountiful resources. The treaties were very important to the French, the English and the Spanish -- I am referring to the south. The Treaties remain a vital and sacred part of our bilateral relations with the federal government.

We wonder if you, Mr. Prime Minister, share that essential concern in respecting our sovereignty, as your forefathers did when they first arrived on this great island of North America.

The relationship between the Government of Canada and the PTNA members is based on these international treaties now entrenched in the Canadian Constitution. A trust relationship continues to exist between the Treaty Indian Nations and the Crown: a judiciary trust responsibility just recently confirmed by the Supreme Court of Canada in November 1984 concerning the Musqueam Indian Nation of B.C. The relations between Crown Canada and the Indian First Nations is, has always been and will continue to be on a nation-to-nation basis.



Section 91.24 of the Canada Act 1867 grants exclusive authority to the federal government to enter into formal relationships with the First Nations. In our view, this bilateral forum is the only appropriate one to conduct federal Constitutional treaty negotiations or the renovation of treaties. There must not be any changes made to Section 91.24 at these First Ministers' Meetings.

We reject the federal government's attempt to treat us as colonies by proposing to legislate in the areas of Indian government and Indian citizenship, such as Bill C-31 now being proposed by your Minister of Indian Affairs.

Our Indian First Nations maintain our right to determine our own citizenship and to exercise jurisdiction through our Indian governments. We have never surrendered these powers to Canada. The Treaties remain unfinished business, and remain unfulfilled under the Constitution Act 1982.

We remind you that upon patriation, Canada was cautioned by the Lord Justice of Great Britain to protect and reserve the rights and freedoms of the Aboriginal Peoples and, in particular, to protect the spirit and obligations of the Treaties. In view of that obligation clearly expressed by Lord Denning, we, the PTNA members, have collectively decided not to participate in these discussions under the present conditions and format. Therefore, any decisions or agreements that may result from these Meetings will not be recognized as binding upon the member nations of the PTNA.

It is our firm position that there cannot be any change to our relationship with the Crown without our consent.

Prime Minister, with those introductory remarks,



I will now call upon Harold Cardinal and Chief Sol Sanderson to conclude our presentation on behalf of the PTNA.

Thank you.

MR. HAROLD CARDINAL (Prairie Treaty Nations Alliance): Mr. Prime Minister, I thank you.

I would like to reiterate the thanks of our colleagues to both yourself and the National Chief for giving us the opportunity to say a few words at this particular Meeting with respect to the concerns of our Treaty People. Rather than taking an extended period of time, I would like to table with you in this Conference a document that has been prepared by the different First Nations in the Prairie area, and perhaps to make some summary comments.

First of all, Mr. Prime Minister, our Treaty Nations want to congratulate you and your new government for the effort that you are making to bring about a true spirit of reconciliation amongst all people in this country, and particularly amongst the Aboriginal Peoples and other peoples who live on this land with us.

We welcome the initiative that has been taken by your Minister, to which you referred this morning in your opening statements, with respect to the fresh and new initiatives that are being undertaken to try and address the problems and longstanding grievances related to the treaty relationship between our People and Her Majesty's federal government. We, as well, welcome the initiatives that you have taken to try to procure agreement on entrenching a recognition of self-government for Aboriginal People in this country. We concur completely with the thrust, the tenure and the tone of these statements that you

and members of your government have made with respect to the need to fulfill some fundamental and basic requirements in the Constitution so that our People can take their place in this country with dignity in the future.

We are somewhat concerned, however, and we want to reiterate a number of points. First of all, the Treaties are bilateral agreements between our First Nations and the federal government. We welcome the remarks made by the Premier from Alberta in terms of his understanding, his government's perception as to how those matters should be resolved. They are matters that ought to be resolved directly between the First Nations concerned and the federal government, and are matters that may be of interest or may impact on provincial interests and can be addressed in a joint fashion once bilateral matters are dealt with and resolved. We support that position, that approach totally.

We understand the dynamics of this particular kind of forum. The proposals that you have tabled for the recognition of Aboriginal self-government are intended to take the interests of all Aboriginal groups in this country. Their approaches, their positions may be somewhat different, and you attempt to accommodate that through the recommendations or through the proposals that are in place for dealing with the question of implementing self-government, on a region-by-region basis.

We who are Treaty Indians are concerned that that particular proposal does not recognize self-government as a Treaty right because self-government, for us, is an integral part of our Treaty. We are concerned, as well, with some of the

organizational suggestions contained in your proposal wherein there would appear to be a requirement for provincial involvement or participation in the definition of what we would define as being matters that are strictly of a bilateral nature between the Treaty Indian People and the federal government.

We respect, and as I have indicated, we welcome the initiatives taken by your colleague, the Honourable David Crombie. We want to make sure, and we want to emphasize to yourself and to other members around this table that we do not want any amendment or Accord that is agreed upon by this Conference to, in any way, derogate from or minimize or interfere with the bilateral relations that our First Nations have with the federal government.

That if we arrive at negotiated agreements on renovating treaties and if part of those discussions deal with the implementation of Indian First Nations self-government within our communities, we do not want a parallel process to interfere with those discussions and to say to us we cannot conclude those kind of agreements with the federal government because over here there is a multi-lateral process going on to deal with those matters. And we would like assurance from yourself, Mr. Prime Minister, that you will fully support the efforts being made by Mr. Oberle, a member of your government, and your Minister of Indian Affairs and other Ministers of the federal Crown that become involved in our treaty negotiations, because we believe on that basis we can come to terms with a lot of the problems that have been in the way of our development in the past.

Mr. Prime Minister, I would like to ask Keith Sanderson to conclude our remarks and to perhaps ask both the provincial governments around this table and the federal government to ensure that in any agreements that you arrive at, that those agreements do not in any way interfere with the bilateral relationship that our treaty people have with the federal government. We are sure that there are matters in the future that we will want to discuss with provincial governments concerned within our territories, but both the federal representatives and ourselves will identify when we feel that it is appropriate. And we just want to make sure that this conference does not derail the process that is in



place already. Thank you very much.

THE CHAIRMAN: Thank you, Mr. Cardinal. I'll work closely with you to make sure that the process is not derailed. Chief Sanderson, please go ahead.

CHIEF SOLOMAN SANDERSON (Assembly of First Nations):

Thank you very much, Mr. Prime Minister. I want just to conclude by saying that we will take up your challenge and the challenge of your government. With the support of people like Premier Lougheed of Alberta, we will step up the activity in the bilateral process. We have already secured commitments from your government in several areas in pursuing bilateral talks. Those bilateral talks will be expanded as a result of your discussions here with this forum. They will impact on our special relationship that we have with you in the areas of First Nations political relationships with Canada, the First Nations fiscal arrangements with Canada. We would like to link those as well with the Deputy Prime Minister's exercise in reviewing new arrangements and new delivery systems. We will also be in the bilateral process and treaty talks pursuing the First Nations Canada economic relations. We will recognize your efforts in dealing with the responsibilities for Canada for entering into treaties as one whereby we can deal with constitutional concerns. The bilateral relationship will also be one whereby we want to pursue further discussions with the federal government and the First Nations of the PTNA those federal laws that are

required to be brought into line with our treaties and complementary legislation respecting the political relationships.

We want to thank you, Mr. Prime Minister, for your letter of last evening. Even though you could not meet our request at the moment to comply with arranging for two treaty seats at this forum, we feel that the letter that you sent to us last evening was one whereby you have formally committed your government to continue to respect this present relationship between the First Nations and Canada by the treaty arrangements and prepared to pursue with us bilateral processes leading to results that will turn conditions around considerably. We welcome your commitment to the renovation process by treaty talks and we would want to conclude by saying that your offer to meet with us after your schedule permits and ours, we would recommend that this time period be within the next three months if possible.

With that, Mr. Prime Minister, on behalf of the First Nations of the PTNA we thank you very much for this opportunity and we would welcome in concluding any remarks that you may have but that concludes our statement here and thank you very much for the time.

THE CHAIRMAN: Thank you, Sol, and my thanks to your colleagues.

We have taken good note, I have taken good note, as has the Premier of Alberta of the caveats contained in your statement, particularly some of the remarks made by

Harold and which we understand and value and we will certainly try and accommodate those during the course of our discussions and I thank you for your presentations.

May I turn to Harry Daniels, please.

MR. HARRY W. DANIELS (Vice-President, Native Council of Canada):

Thank you, Mr. Prime Minister. At the outset I just want to say that since everybody talks about the length of this process and how long we have been doing it and talking about it in various forums at this table and other ones, it is a very good opportunity for me to meet Prime Ministers of this country. You are the fourth Prime Minister, sir, and I welcome you to the table. I could never have done this if we were in Regina Beach, Saskatchewan.

This process has evolved into one taking on a very positive nature and I feel very encouraged about that. The federal draft has gone a long way to try and meet our requests for the entrenchment of the right of self-government within Canada into the Constitution.

The Native Council of Canada has tabled a document, 800-20/022 called the Proposed 1985 Constitutional Accord Relating to the Aboriginal Peoples of Canada, but I am going to be speaking to page seven of that wherein we have the amendment to the Constitution in the schedule. It has been the position of the Native summit and its participants that we, as a collective body, at least on this issue are looking for the entrenchment of the right to self-government within

Canada. And I would read it more correctly to state:

"The Aboriginal Peoples of Canada have the right  
to self-government within Canada"

is the wording that we are proposing, in our proposals  
from the Native Council of Canada.

We have dissected your proposal, the proposed  
Accord that we received the other night, item by item and  
I do not want to belabour the point and go through it. I  
will just use a Nungakism--we did not do major surgery to  
it, we just did a bit of a face lift. So we did not kill  
the baby, we kept it and I would only point out in our  
proposal, Mr. Prime Minister, that on page three, behind  
the number three and just below it, it is supposed to  
read: "35.02" and the "2" in brackets should be gone and  
then further down on the same line "Clause two of" should  
be deleted, and at the top of page four where you see the  
number 35.01 (2), replace that with 35.02. Those are the  
only changes that we would see in there.

Our proposed amendment in response to yours is  
as I stated:

"The Aboriginal Peoples of Canada have the right  
to self-government within Canada",

and that would be injected into Section 35 of the Constitution.

At the beginning of my statement, Mr. Prime Minister,  
I stated that I was very encouraged by this process, and I  
say that with respect to this forum because it has developed  
and evolved into, not a love-in, as it were, but a forum wherein



we are finding some agreement at this table. And with the lead of Premier Hatfield and the Province of Ontario and Mr. Pawley, we now have five provinces who are saying, yes, we would like to see the right to self-government for the Aboriginal Peoples in the Constitution of Canada, albeit not in the same words as we want to see it, but we are willing to debate that. We are willing to work at it. We are willing to send our scribes upstairs to finally correct the measures that were taken against our people by depriving us of self-government. I think Mr. Watts just moments ago gave a good overview and I will not repeat it here what he thought self-government was and was not, and I subscribe to what he has said.

So, if we have five for us and your statement is, I think:

"The rights of the Aboriginal Peoples of Canada to self-government within the context of the Canadian federation, that are set out in agreement in accordance with..."

and so on and so on. We have stated at the Ministerial meetings that we would like to see a statement that is simple, precise, to the point with not a whole bunch of qualifiers attached to it, sir. We would like to see in place of what you have proposed, an admirable try to derail us, but we would like to see the Aboriginal Peoples of Canada have the right to self-government within Canada. We could live with that and work within that framework. And if Mr. Crosbie

and some of our people were to go upstairs this evening to negotiate, we are willing to go into that forum as well, but I wish you would direct your attention to page seven of our document when we are talking anyway, and that simple statement that I started to really make a short statement has turned into a long one, and I would thank you now for your time and just hope that we could find some meeting ground on this item. Some people are saying, there is a bit of negativeness yet, but we started out with only one province fighting for us. We now have five. And as I said, not as far as we wanted to go, but we have achieved and overcome insurmountable odds to get to where we are. So let us not lose the flavour or the direction of where this positive feeling is going. We support the federal government on the stand that it has taken and I appreciate the effort that goes into things like this with your people like Gerard Veilleux and those people who have laboured long and hard to do those kind of things. Our people have done the same thing. We worked until two o'clock this morning. We are willing to go through it again. Canada tried to change its own Constitution for fifty some years. We helped changed it in more than three years. I mean the first amendment ever to the Constitution. We want to make any changes to this Constitution positive ones. Amendments that will prop up the Canadian fabric and make it a stronger country. We are not here to threaten the federal government or the provinces. We are here to be allies.

THE CHAIRMAN: Thank you, Harry. I noticed that you refer to the fact that you sort of liked these conferences because it is your fourth Prime Minister you have met. I do not want to diminish your historical appetite but I hope you will agree four is a nice round number. Why don't we stick with that one for a while.

MR. HARRY DANIELS (Native Council of Canada):

It is okay by me.

THE CHAIRMAN: Thank you, Harry, and you can be sure we will be ready to work with you, David Crombie, and John Crosbie and our colleagues and officials throughout any night to make progress on this. I think your remarks are very fair. You have noted very considerable progress that we have made and we are almost home and that is what this is about, to try and get us there. So with a little bit of help, a little bit of understanding and some persuasion and a little time, maybe we will move along a little bit. Zebeedee Nungak.

MR. ZEBEEDEE NUNGAK (Inuit Committee on National Issues):

Thank you, Mr. Prime Minister. Well, Harry has lived through four Prime Ministers, I have lived through eight Ministers of Indian Affairs in my career.

THE CHAIRMAN: He is the best and the last.

MR. ZEBEEDEE NUNGAK (Inuit Committee on National Issues):

Well, Mr. Prime Minister, when the preparatory process started under the direction of your new government back in late 1984, the Honourable Justice Minister at the

time he was chairing the First Ministers' Meeting noted that anybody who can attain the agreement of all seventeen parties sitting around this table deserves to have a statue put up outside this building. And at the time he tabled the federal initiative and I told him I rated that initiative at that time worthy of a pedestal with his name on it with a statue to come later. But since that time with the various revisions that have been made, I think we are at a stage where we can commission a statue of you, Mr. Prime Minister, with the label to come later.

THE CHAIRMAN: You just saved me because John Crosbie in lieu of a statue is asking for a causeway to Newfoundland.

MR. ZEBEEDDEE NUNGAK (Inuit Committee on National Issues):

I think perhaps if we travelled the whole distance we may even have enough room for a statue with a label for the gentleman sitting to the left of you. So we still have that distance to go.

I share Premier Miller's concern that we should cut short the philosophy and roll up our sleeves and get down to business. That has always been my attitude since the outset of this process, but as long as there is reasonable doubt amongst the powers that be, that are sitting at this table, we mostly have to sound like a broken record and explain ourselves as to why we think we need the right to self-government in the Constitution.



The question of the provinces that are not forthcoming that is posed to us, why cannot the Aborigines be happy in today's political climate, in today's political framework? Why cannot we live happily ever after in our regions today? And I am never one to dwell on history but one of the examples that I gave the last time we met with the Ministers was an example of how you as legitimate government have treated Aboriginal Peoples. And the example I give is the 1912 Boundaries Extension Act whereby the Government of Canada passed a bill that extended the Province of Quebec boundaries to what was then the Ungava District of the Northwest Territories, and which is the geographical area which I happen to come from. So one morning in 1912 my grandfather woke up a newly minted citizen of La Belle Province, having been a territorial Eskimo the day before. I mean with no regard to the fact that we are a coastal people and the offshore islands surrounding the Quebec coast were left behind in the transfer, yet up to today the offshore is our dinner table, the offshore is our bread basket and it is only by the good graces of the federal government not enforcing the wildlife regulations in that area that we are able to practise our traditional pursuits. This is the kind of hard political reality that have been imposed on us from time to time and that we want to somehow correct. And I have been asked, well, what does self-government mean to me, what does self-government mean to you as an aboriginal person and my answer is that it is--I know I feel myself and my people have the right to run the affairs that directly affect

our lives in the areas of education, health care, justice system, culture and language and recreation, housing, delivery of services, management of renewable resources, on which a lot of our livelihood is based upon, and in sharing resources and economic development whereby we no longer would be mere bystanders or spectators while resources are being exploited and developed in our homeland.

Self-government to me is not setting up our own armed forces, our own department of immigration, although from time to time we would have to have some influence with the federal government in that area, because as I said in my opening statement, our relationships, family relationships transcend international as well as domestic political boundaries.

It does not involve setting up our own external affairs, although there again we have in the past two years participated as members of the delegation of the Government of Canada in things like the Endangered Species Convention where the specific concerns on specific species that are being discussed in these conventions are discussed. I would also note that the Inuit in Circumpolar regions have their own non-political organization, the Inuit Circumpolar Conference which has non-governmental organization status in the United Nations. We have these forums even before there is an amendment that recognizes our right to self-government in the Canadian Constitution. We have made strides prior to this and we want to continue going in that direction.

Mr. Prime Minister, I feel that the initiative of the federal government is a worthy document that we feel is workable. I was heartened to read certain sections of your letter to us of yesterday that accompanied the document you have tabled today, in which you say in part: "The federal preference is of course for a Constitutional amendment to be agreed at our meeting." You go on to say later: "In the end, I have concluded that the balance of advantage lies with amendment, the only course of action likely to establish the relationship of trust between governments and the Aboriginal Peoples that has eluded us for so long."

Those are sweet words to my ears, because you said them on your own steam and not by being hounded and nagged at by us. I think you have recognized in the few months that you have been Prime Minister, as well as your colleagues in the federal government, that we are not here for the fun of it. We are here to do business and to make progress. I was

also heartened and do support your suggestion that a working group be convened under Justice Minister Crosbie's chairmanship tonight. I asked for just such a forum last year, but instead we send out officials. However, under Mr. Crosbie and like colleagues, I think there will be enough calibre for good progress to be made in the back room tonight. I would support that, and I will certainly send somebody from my organization to take part.

I think, somewhere along the line this afternoon, it would be beneficial, even if in summary form, if you or some of your colleagues from the federal government could give us a capsulization of the main contents of your proposal here.

In closing, I would like to make the point again that what we know we need is not, with all due respect to so-called solutions that have been enumerated by some provincial governments which are political or band-aid solutions, as I call them -- or they could be labelled political candy when, in fact, what we need is Constitutional medicine. I think we have to keep that in mind at all times, because this is an emanently Constitutional forum and we cannot squander it on non-Constitutional issues. Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mr. Nungak.

Nous allons maintenant demander à monsieur Sioui du Québec, s'il vous plaît, de prendre la parole.



M. SIOUI (chef de la Nation huronne Wondat de la province de Québec): Monsieur le président et Premier ministre, monsieur le meilleur ministre des Affaires indiennes, monsieur le ministre, soeurs et frères autochtones, amérindiens et inuits.

Ce matin, on a parlé de la complexité de toutes les questions concernant les discussions actuelles, de la problématique, de toutes les diversités. Je ne peux pas passer sous silence que des nations indiennes ont des problèmes complètement opposés, les unes et les autres.

Ici, par exemple, je pense à la situation des gens de l'Alberta. Leurs problèmes sont nettement à l'opposé.

En passant, j'en profite pour remercier la délégation du Québec d'avoir laissé un loup entrer dans la bergerie! Je suis Indien, je suis chef de la Nation huronne Wondat de la province de Québec et, pour mes frères amérindiens qui sont ici, ne vous en faites pas, je ne suis pas vendu ni à vendre!

Monsieur le Premier ministre, j'aurais voulu vous dire que votre peuple, votre mère-patrie, les Irlandais et mon peuple, les Hurons, nous avons au moins une couple de choses en commun. Nous aimons ce qui est vert. La différence est que, nous, nous n'en avons pas! Parmi les choses vertes, il y a un territoire. Notre nation huronne n'en a pas; on nous a parqués sur un terrain, un enclos de trois-quarts de mille carré. Si j'ai la chance, j'y reviendrai durant la Conférence de façon un peu plus explicite. Donc, nous n'avons

pas de territoire et nous n'avons pas non plus de ressources financières.

Aujourd'hui, je vous dis, donnez-nous un point de départ, une poussée, et nous vous ferons la démonstration, nous, le peuple huron, de notre capacité d'administrer. D'autres nations amérindiennes qui sont comme nous dans une camisole de force pourraient tenir pareil langage. Je pense ici aux Abénakis, aux Micmacs, pour ne pas en nommer d'autres.

Notre volonté et notre désir intense de labeur et d'administration est une autre chose que nos peuples respectifs ont en commun. Comme disait un homme célèbre: «Give us the tools, we will do the job.»

Merci.

LE PRESIDENT: Merci, chef Sioui.

Enfin, j'ai trouvé un Huron irlandais! Je savais qu'il y en avait en masse mais, là, j'en ai trouvé un!

Ça me fait plaisir, chef. Merci de vos commentaires.

Could we go to Premier Devine, please.

HON. GRANT DEVINE (Saskatchewan): Thank you, Mr. Prime Minister. I have a couple of observations to make.

First of all, you have done several things that helped us in your recent proposal. I will just highlight a couple and then deal with three or four questions that we could perhaps review together.

I believe, as you do, it is important that whatever form Aboriginal self-government might take, it is a form that fits within the framework of Canadian confederation. You have said that in your recent proposal. Secondly, it cannot be based on the concept of Aboriginal sovereignty, and I believe the federal proposal makes that clear. I am also pleased to see the requirement for ratification by Parliament and legislatures restored in that latest draft. Those three items, I view as positive.

There are still two or three that present some problems. The first -- and I will give a couple of illustrations -- is with respect to self-government and what it means. I have met with most of the groups here at one time or another and even in the last 24 hours have talked to them and had very good discussions, as well, at home in Saskatchewan. Perhaps I could give you an example.

If you took the City of Montreal and you said to half a million people in the City of Montreal -- whatever their ethnic origin might be. Pick an ethnic origin -- English, Italian, Aboriginal or whatever. If you say to half a million people: "As of tomorrow, you have enshrined in the Constitution a new undefined self-government", just let your

imagination work as to how that might work in the City of Montreal. That is precisely what you have in the City of Regina, with about 20-some per cent of the population that is part of the City of Regina of Native origin. You have people living beside each other with one family here and one family there. They go to the same church, their kids play on the same hockey team, they are involved in the same community affairs, and the next day this family has a new entrenched right to self-government undefined. This neighbour looks over and says: " Well, what are you going to do? What does it mean?" That is the real question. I raised Montreal because perhaps people in Montreal or other large urban markets that we have in Canada do not recognize the impact that that could have on a community. Some of the questions have been posed, for example, by the paper presented by the AFN. On page 3, they talk about coexistence of jurisdictions. Well, would coexistence of jurisdictions mean in a city like Regina that we would have a third school board? We have a public school board and we have a private school board. Would it mean that we would have a third or a fourth school board? I don't know, and the people in that community would not.

When you look at decisions that might be made with respect to laws, would the laws apply off a reserve as well as on a reserve? We don't know. Yet, if it is in the Constitution, obviously it must mean something. Therefore, it could be relatively significant to the communities and to the families that have to live within this brand new Constitutional right of undefined self-government. I throw those illustrations out, because cities in western Canada face that directly. I am



not sure that people in the middle of Canada, in a city like Montreal, understand the significance of putting that community in that position.

The second question is with respect to law-making power, and people have talked about it here. It is relatively easy to consider law-making power when you are dealing with a land base. Many people can understand that. What is the law-making power without a land base? In particular, how would the power be exercised? What powers would be included in it? Again, those kinds of questions might not mean much to somebody in central Canada, but they mean a great deal to people in a city like Saskatoon or Prince Albert or Edmonton, for that matter, or several others.

The third question -- and I mentioned it this morning just briefly -- is with respect to the Constitution itself. It seems to me to be really difficult to keep the Courts out of the Constitution. The Canadian Constitution is here and we have a Charter of Rights. It would seem to me -- maybe it is possible, but it would seem to me extremely difficult to keep the Courts out of the Constitution.

Let me give you another example. In the City of Regina, there are 45 different Aboriginal groups in that city alone. Would we be permitted to negotiate with every one of those organizations plus any new ones that could be created in the future? I don't know. Would the Courts decide? Would governments be negotiating with the right group or the wrong group? Who would decide that? Would we be talking about the right issues? I don't know. Would we move fast enough? Would we be able to show that we were bargaining in good faith? Quite simply, we just do not have the answers to those kinds of

questions. Given our unique circumstances, they are very real questions.

So, I go back to the beginning. We have made significant progress. I believe we both understand more about each other but the people, the residents of my riding, of my cities across the Province of Saskatchewan, have sincere questions about how it would work undefined.

Finally, let me just say that we have had good progress in Saskatchewan, and I elaborated to some degree what we have done in the province with respect to Metis organizations on reserves and off reserves, and that will continue. We are looking for ways to have local families comfortable in our dealing with dignity so that they do not become so afraid of it that they back up 20 years. We have made progress in the last three years, probably in the last five and the last ten, and so forth. But if it scares them and it is so undefined, and yet it leaves so many things unanswered, again I go back to: what would 500,000 people do in a city like Montreal if they were given that unknown right?

I leave those on the table, because Saskatchewan people have asked me to ask that so that we can deal with it.

THE CHAIRMAN: Mr. Premier, clearly the issue is not uncomplicated. If it were, of course we would not be here.

I have taken note of a number of people who wish to speak. May I suggest that John Crosbie, who is champing at the bit and becomes very unruly if he is restrained any further, would like to say a few words, after which we would have a quick break and get back with the names, all of whom

I have put down.

Mr. Crosbie, please.

HON. JOHN CROSBIE (Canada): Thank you, Mr. Prime Minister, for removing the bit. I just want to address a couple of points that Premier Devine has made and a couple of the questions that have been raised.

First, I would like to refer to the amendment that we are suggesting to the Constitution of Canada. The first amendment says: The rights of the Aboriginal Peoples of Canada to self-government within the context of the Canadian federation that are set out in agreements in accordance with Section 35.02 are hereby recognized and affirmed. What we would be doing, if we were to adopt this, is to recognize that Aboriginal Peoples in Canada are entitled to self-government within the context of our federation, and these would be set out in agreements.

If there were no agreements, there would be no rights. With respect to the City of Regina and the problem that you raise there, Premier, there would be no Aboriginal self-government in the City of Regina unless there was an agreement reached between, presumably, the federal government, the Aboriginal groups concerned and the province as to how this were to happen, were it possible for it to happen in an urban area like that. I doubt very much whether it could happen. There could well be an Aboriginal self-government on an Indian reserve, ethnically based. There would be one in the Northwest Territories, which would be a public kind of government, which they are satisfied with there. So, this is a right that is subject to being spelled out and defined in agreements.

The objection is raised that somehow we are agreeing to an undefined commitment or an undefined right. As I see it, there is not a Constitution in the world that, when it is adopted, you are adopting a whole series of undefined commitments or rights. If we look in our own Constitution here, we have a whole series of undefined rights that have been adopted just three years ago. If you look at Section 36, the provinces and the Parliaments and legislatures are committed to promoting equal opportunities for the well-being of Canadians. I mean, that is not defined, except in very broad terms.

Further, in economic development to reduce disparity and opportunities; the essence of that is not defined. We agree, the Parliament of the Government of Canada committed the principle of making equalization payments to ensure that provincial governments have sufficient revenues and so on.

Section 27, already adopted three years ago, says



that the Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians. What does that mean? That is not defined. It indicates that the adopters of this Constitution wanted to recognize the multicultural nature of Canada, and they state this. When the Charter is interpreted, if it becomes relevant at any time, they want the Courts to know that it is our objective to preserve and enhance the multicultural heritage of Canadians, but how and so on is left open to be decided. It is quite a wide thing.

Section 15, the equality rights, is coming into effect on April 17. That is undefined. Who knows what that means. The Courts will be the next 50 to 100 years or 200 years defining what the equality clauses mean. Do they mean, for example, that people can no longer be forced to retire at age 65? Is that what they mean?

I could go on. We have a discussion paper on that before a committee of the House now. So, I do not think if we adopt this suggested amendment we are doing anything strange or unusual. There has never been a Constitution in the world adopted yet that was not adopted with a whole series of undefined commitments and rights in it.

The Premier brings up the position of the Courts: can we keep the Courts out? Well, the amendment that we are suggesting, you cannot keep the Courts out. It is like the Newfoundland expression: you can take the boy out of the bay but you cannot take the bay out of the boy. You can take the Constitution out of the Courts, but you cannot take the Courts out of the Constitution. They are always there to interpret it

if they have something to interpret.

But in the amendments we are suggesting here, what commitments are we asking governments to observe? Section 35.01(2) commits the provinces and the Government of Canada to participate in negotiations towards concluding, with representatives of Aboriginal People living in particular communities or regions, agreements relating to self-government that are appropriate to the particular circumstances of those people. That is simply a commitment to participate in negotiation. There is not any guarantee that there must be results. We do not know what the results will be. We are committing ourselves to negotiate. We are doing that now; we are doing that with the Aboriginal Peoples now.

So, this is just a commitment that we are going to meet with them and negotiate agreements appropriate to the particular circumstances of those people. When you take a city like Regina, I do not think it would be appropriate to expect that in a large metropolitan area you would take people of one ethnic strain or multicultural strain or whatever and have a separate government just for them. I do not think that is what we are aiming for at all. I doubt that there would be any agreement on that.

The amendment we are proposing here is pretty well non-justiciable. We cannot say that it is 100 percent correct that the Courts will not be able to do anything with this. Courts are ingenious. They may find some way to have something to say about this, but there is not really any remedy here except to remind the politicians that they were breaking their word and that they were not carrying on in good faith.

The other sections here say that the rights of the Aboriginal Peoples may be set out in agreements concluded with representatives of the Aboriginal Peoples. For the agreement to be protected under the Constitution, you have to have a declaration to that effect, agreed to by the parties, and it has to be approved by an Act of Parliament and an Act of the legislature of the province within which those particular Aboriginal Peoples live. Once again, I cannot see that there are serious legal implications here to be greatly concerned about.

It is said that we should define and then sign. If that is going to be the process, I am afraid we will never sign. There is no way of defining in advance all the varieties that there might be of Aboriginal self-government. If you had the wisdom of Solomon -- if we all here had the wisdom of Solomon, and there is only a few of us do -- we would never be able to define the types and kinds of Aboriginal self-government that is going to be necessary in Canada to meet a particular situation.

Now, the representative, Mr. Phelps, from the Yukon said definition must precede entrenchment. I think that an act of faith precedes building, that we have to have an act of faith here; then we can build on it. I remember, Mr. Chairman -- if I might get parochial -- it was 36 years ago on Sunday past that Newfoundland joined Confederation. That was a leap in the dark. I am not going to say how it ended up. The Atlantic Accord brought some light, I do not mind saying that.

If Newfoundland had waited for it all to be



defined and then signed, we would not be part of Canada now. We would have all the oil and gas and all the fish. We would not have to share them with the Prime Minister. As a matter of fact, Mr. Chairman, they voted in Newfoundland to confederate, and then they negotiated the terms of the union. Now, how is that for an act of faith? So, I think the act of faith has to precede the building of it.

There is no inconsistency here with anything that is in this Charter. The whole equality rights section is an act of faith. No one really knows what we are getting into and what the results are going to be; therefore, what the Prime Minister is asking is for us to show the same kind of faith with respect to Aboriginal self-government. We know that there will be a lot of problems with it, but we are all protected under these sections. We have to have agreements, and the agreements will have to be sensible.

If I was somebody dealing with the City of Regina, I would not enter into any agreement that took an ethnic group of that city out and tried to give them some separate government; I would say, no, that is not what was intended, it is not possible. On a reserve for status Indians, that is possible; for another area over here perhaps where there are many Metis, it may be possible there; in the Northwest Territories it is possible and in certain other areas.

Mr. Chairman, those are my observations. I know these are genuine worries, and these provinces are the provinces which have large numbers of people and will really have that problem.

When I look through the document here, I think, Mr.



Prime Minister, that the provinces with these concerns are covered. I would end by saying that we should adopt the great poem, Ulysses:

"O, come, my friends, 'tis not too late,  
To build a newer world,  
Cast off and keeping well in order,  
Smite the sounding furroughs."

I will not go any further than that; you might get seasick.

Mr. Prime Minister.

THE CHAIRMAN: And on that airtight legal argument,  
I rest my case.

Coffee time.

---Short Adjournment

---Upon Resuming

THE CHAIRMAN: Can we begin, please.

On aimerait commencer, s'il vous plaît. Messieurs,  
mesdames les délégués, veuillez prendre place, s'il vous plaît.

We are going to begin with Mr. Sinclair, please.  
Jim, would you like to go ahead?

MR. JIM SINCLAIR (President, Association of Metis  
and Non-Status Indians, Saskatchewan): All right, I will start.

First of all, when I put up my hand, I wanted to  
draw attention so we could get back to the federal document that  
was put on the table.

THE CHAIRMAN: Could we terminate the interviews,  
please, at the back of the room?

Mr. Sinclair has the floor, and all of you would  
like to listen to him. Mr. Sinclair, would you go ahead, please.

MR. JIM SINCLAIR (Saskatchewan): As I said, when I had my hand up at first, I wanted to bring people's attention back to the federal document that is laid on the table because I felt, and we feel, I suppose, that the document is a very basic document dealing with self-government.

There was a feeling amongst our People that we must get something started. So we were hoping that the Premiers of the provinces would agree to this document so we could have further discussion. We feel that any weakening of this document would certainly put us in a position where we are dealing with something that is almost non-Constitutional. It is so heavily favoured for the provincial governments and the federal government through its clauses that we may never be able to define the rights of self-government.

I think for us, the very basis of our being here, and somebody called it the rights of self-government, but for us it is the beginning of liberation for our People. It is the very basic foundation for liberation for our People. We want to begin that process, and we want to work towards some solution for our People.

I think the document, even if it is agreed to by the provinces today, is still going to have to be built upon by the Aboriginal Peoples before it is fully accepted. In our discussions at the summit meeting this morning and this afternoon, we have some problems with the document. But for us to criticize at this time or to begin criticism of the document before we have an agreement on the basic document would be disastrous, because we are going to leave this Meeting without any resolve. I do not want that to happen.

There were questions laid upon the table today about what is self-government. I really do not want to get into that again, but I think that we have to try to understand it. We are not talking about self-government or taking over a civic government in Regina. We have never talked about doing that very thing.

We are talking about self-government on a land base, that is tied to land, and that land is not tied to any urban centre, as far as we are concerned. We are talking about controlling our own institutions within the cities. That has been done before and is being done now by separate school boards. It is practiced now, so it is something that is not new. We are talking about the per capita payments, the transfer grants of money that would come directly to us so that we could spend that money on training, recreational centres, economic development or whatever you want to call it; whatever we decide our institutions must do. For too long we have had money that supposedly comes in our name to our People because we are the heaviest unemployed, because we are the least educated, because we are the least housed, this money is supposed to help us but it never gets to us because it only trickles down to our People, because there is no delivery mechanism or any self-governing structure to deliver our programs.

I am not talking about self-government as just meaning programs. That is just some of the aspects of self-government.

I think also, the citizens in Regina, for example, would certainly want to see a resolve of the problems that are there. Those problems are going to grow. Those problems you cannot push under the rug any longer. The



25,000 or 30,000 Native People out there are heavily unemployed, are in the prisons, have no education, are living on Welfare, have poor housing conditions. In fact, in a recent study a couple of years ago, there is \$1.5 billion spent in Canada on Aboriginal Peoples. That \$1.5 billion is being wasted because it goes to the kind of welfare institutions that keep us under the thumb of both the federal and provincial governments and does not allow us to make decisions. So, the money is being used to control our People rather than to build our People or let our People have the self-determination that they want.

This is the kind of thing that really bothers me, because I feel that that money could be better spent. I feel that we have become an industry in Canada -- and I have said this before. Aboriginal Peoples have become an industry in this country where others live off our poverty and live off our dilemma. I think that has to change, and I think your attitude today, Mr. Prime Minister, is a good one; it is a positive one, and I would like to build on that because it is important that we start to build on that basis.

Someone was mentioning the Courts. What happens if the Aboriginal Peoples start to use the Courts? Is it not about time we started to use the Courts in our favour? Does that not show the inequality of this country when someone is scared that someday we will go to Court and we will win a case in our favour? Does that not bother someone around this table to say to us, "Look, we don't want to give you any rights in case you go to Court and you make us do something"? How long is the goodwill going to last in this room? Goodwill means saying, "Let's make a deal". Goodwill says, let's go home and implement



and work out this deal and define this deal, and constitutionalize, of course, those packages either as they come or as we further agree to them or put it in there now and then define it, as we are saying today.

I think Mr. Crosbie is right. Self-government is something that if we are going to wait until we get a clear definition, we will never get it. This country is still making new ideas, new institutions and new agreements. If this country was going to go basically on that, they would not have a self-governing structure today because they are still continuing to make agreements. You will be making agreements with Aboriginal Peoples, I hope, forever from now on, once we get in the Constitution.

We want to carry our own weight. We want a position in this country. We want to come into Confederation. We have been left out of Confederation. This agreement, as I say, is a very basic agreement.

I have talked to Mr. Devine and his colleagues in the last couple of days and one of the good things that he has had to offer is that he would make a separate agreement to make sure that we would keep our obligations in terms of a working relationship so that we could resolve the idea of self-government or the concept of self-government to make sure that we know what we are talking about.

I think that our people can sit down at the table with any government, either federal or provincial, and begin to work out those details. Many of our Aboriginal organizations have a very basic democratic structure and we in Saskatchewan have developed a balance between the ballot box and the institution that we have in order at this time. And those institutions are there only as delegated authority, and each spring we have to come to the government with our hat in our hand. We make our budget and we do not know whether those budgets are going to fly or not. We do not know where that money is going to come from. We do not know if we are going to get that money. Total programs can be cut from underneath us and we do not know when or where those cuts are going to be made. We want the powers to make those kinds of decisions as to how much we will spend, where we will spend that money, and how we will use that money to benefit us. There is no sense in building a jail in the North to provide twenty-five jobs for our people for one year and after that a new jail is built at the cost of \$3 million or \$4 million and then our people to get thrown into that jail and to use it in that context. That is not the purpose of development for us.

Our purpose of development is to take full control of our lives, our self-determination, and build around that

self-determination. And I know that will hurt some but I want to say that we want to do that within the context of Canadian federation. We are not looking for something. I have said before that, I know I have made some of my own people mad, it means taking responsibility. We have said that we are prepared to set up an army base in Uranium City where we would let our people join the armed forces and take responsibility or take the responsible role for the defence of this country when we become citizens. Our people before us have gone to two World Wars and died for this country and they have died on foreign soils and shed their blood and shed their blood for what--to come back and not be able to even cast a vote and I can remember that after World War II. Those are the kind of things that our people fought for and those are the kind of things now our people want to participate in. So I am here and I am prepared to make a deal. I am not prepared to make a deal at the expense of the other Aboriginal People but I am here to deal with this federal document that is on the table because I think the Prime Minister and the Aboriginal People put this document on the table in good faith and I think we must get the other three provinces on side, and I am sorry, I hate to apologize for the Aboriginal People but I guess I am one of the people that is holding us back simply because I have not been able to make an agreement with Mr. Devine to support this paper, and I have to hold some of that responsibility. Even though our powers are so limited, it means nothing, but I have to accept and take

some of that responsibility that we cannot sign a basic document today.

So I am prepared to do whatever it takes in the next day and a half to make sure this document is signed and we can build on this document or at least agree to this document and then build on some of the clauses that we feel should or should not be there. Thanks, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Jim. I discerned in what Premier Devine was saying, and I think this is borne out by his record of a genuine desire to move forward. He raised questions that I think probably should be raised around a conference table like this, that we are all going to try and respond to. You have responded to some of them and hopefully, Premier Devine on behalf of the people of Saskatchewan will get further answers that will be able to satisfy some of the concerns that I think we all know exist, for example, in the Province of Saskatchewan. The Premier makes an excellent point. It is very easy for the people say from Montreal to deliver themselves of fine theories about Aboriginal Rights because there are not very many around. And we know how fascile that is and we know how difficult the problem is when you want to resolve it in real terms. You want to leave here with an agreement that means something, that has got some guts and blood and means something to your people, provides some self-worth and some hope. I think that it is very easy for people in NDG or elsewhere, and I am not disparaging anybody, who do not have the kind of problems that you have



described in their neighbourhoods to say, well, yes, solve it overnight. Well, obviously, it is a very intractable kind of problem because it has been with us so long but I see a great goodwill and determination around this table, Jim, to solve it, at least in substantial measure. And for the reasons that you mentioned, you are quite right there are more people who have gotten rich in this country on the backs of the Aborigines than anything else I can think of. By God if I had specialized in Aboriginal law rather than labour law, I would be a hell of a lot better off today, I'll tell you that, and look at poor Crosbie. I think we know about the cottage industries that have turned into empires around here because of that, and I think that money, you are quite right, could be spent by communities and controlled by the communities that you represent. That is exactly what we are trying to do, I think, each in his or her own way.

May I turn to the Attorney-General of Manitoba, please, Mr. Penner.

THE HONOURABLE ROLAND PENNER (Attorney-General, Manitoba):

Thank you very much, Prime Minister, and I will speak very briefly in support of Mr. Crosbie. I do not know if he will take it as a case of gilding the lily or tarnishing his image but he can take it as he will, I would agree with you that the points raised by Premier Devine are valid points and have to be dealt with.

I would just like very briefly to take a look at

the situation as it presently exists and the situation as it is being proposed. I think we have to bear in mind what the Charter now says of the Constitution. It says:

"that the existing Aboriginal and treaty rights of the Aboriginal Peoples of Canada are hereby recognized and affirmed."

You see if the courts are called upon to intervene there is a strong case that can be made out, I do not say that it would be made out, but that can be made out that the existing rights of the aboriginal and treaty rights include the right to self-government. The Courts can get involved now with the existing terminology.

To my knowledge there are only two cases and both at lower levels which really deal with that issue. One goes one way and the other goes the other. So one cannot find support, judicially speaking, in jurisprudence be very definitive about that. Indeed if one looks at the language of the treaties, if one looks at the language of the Royal Proclamation, a case can be made out. But if that indeed were to be the way in which the issue was resolved or as is suggested by the PTNA by the extension of treaties and bilateral negotiations, then let me speak as a provincial politician, we would have none of the safeguards which I feel are proposed in the federal document. The virtue and strength of the federal document is that it gives--and I think some of the Aboriginal groups feel that that may be a weakness, I feel that it is a strength against the provinces who are mostly affected, and Manitoba is one of them and that is why I say we understand some of your concerns--it gives the provinces a

role with respect to the definition of the particular forms of self-government which may pertain in different regions, communities within the province. So I simply wanted to add that. I think we have to look at what already exists if you are looking at the courts intervening and you will see that the courts can intervene. If there is no political solution we might be faced with a judicial "solution" that no one really likes, except perhaps the Aboriginal Peoples might be further ahead than they would be with what is being proposed.

They are prepared to make the compromise and it is a very marked departure from where the Aboriginal Peoples stood in 1983 when their positions were first put on the table, when the language of sovereignty was the language that was being used. Now they are saying, albeit they have some problems with wording, we are prepared to go along with something like that. I think we have to come half way and meet them.

MR. GEORGES ERASMUS (Northern Vice-Chief, Yukon and Northwest Territories, Assembly of First Nations):

Thank you, Mr. Chairman. Now you probably have AFN's document now. We wanted to table some suggested amendments to the federal proposal.

First, I would like to state that the principle that the federal approach is taking is strongly supported by AFN. We support the concept of entrenching self-government into the Constitution with an orderly process that would implement the rights across the country. The kinds of concerns that the Premier of Saskatchewan is bringing forth,

we would really sincerely like to make it clear to him that he has absolutely no need for concern. We have waited patiently this long and now that we are about to possibly entrench in the Constitution a process to implement rights to self-government we would not be disruptive. We would be prepared to sit down and work out the details of how our rights to self-government would materialize, what institutions that our people would use to implement their rights, et cetera and how our own jurisdiction would inter-relate with the jurisdictions of the provinces, et cetera. There could be deals worked out the same way in which the two forms of government recognized now in the Constitution very clearly, the federal and the provincial, get together occasionally and work out how in certain areas of jurisdiction they will work together.

It is our hope and our sincere desire for us to be in a situation where we are obviously a part of Canada and we have our own forms of government and we can sit down with other forms of government and work out how we will do joint projects together. We will perhaps build roads together, perhaps build schools together, et cetera.

I got the impression, maybe that was not the intention of some of the Premiers earlier in the day with their opening remarks, that perhaps there was really no need for self-government because there were many other non-Constitutional things that were being done by themselves that could deal with the real people issues that affect the native peoples. We have had many meetings on this and I do not think any of us want to go over all of the



staff that we have brought to those other meetings. I guess the concern some of us here have is that we have not had as much access to the major players here like we have had to Premier Hatfield from New Brunswick. I believe now that there is a basis of trust that has been established because he has come to our meetings, he has heard us, he knows where we are coming from, he knows the sincerity with which we come to this forum with and our basic intentions he understands are worthy and needing of being recognized and needing of being supported by the major players in this country.

We tried to convince the Attorneys-General in Toronto a couple of weeks ago that it was in the best interests of this country that Aboriginal Peoples have self-government. We have had a situation for many hundreds of years where Aboriginal Peoples rights to their own self-government have been denied. We all know the situation; the first people have the least of most things in this country, and one of those items is dignity, that the Prime Minister talked about. But another point is that it may be hard for other people to believe that are non-native, it is very hard for most indigenous people of this country to really feel a part of this country. It is not by accident that the majority of our people that are gifted one way or another spend a lot of their time fighting for their people. It is basically because we have no other choice. It is not something we like that we have spent the majority of our energies fighting the governments of this country, the federal and provincial governments. I for one would love to

put that to rest. I would love an opportunity to put my energies to building something which we could all be proud of. The frustration level of our people is immense. We have great patience but the record speaks for itself, the suicides of people out there; not everyone has had the patience of some of the leaders and the organizations and the people that keep coming back. No matter how many times they get turned away, they keep coming back.

The point we are sincerely trying to make is we have, after a long trail of trying to resolve the social problems, the economic problems of our people, we have become absolutely convinced, regardless of what our legal rights are, our rights that have always remained, our inherent rights, we have totally become convinced that unless we have self-government within Canada the native situation is not going to change quickly. It is going to take a long, long, long time for non-native people to really know how to deal with Aboriginal Peoples. The kind of programs that we have heard here from provinces that they are proud enough to parade around, most of the leaders have heard those kind of programs and many other programs like them in housing and economic development and social development, et cetera, et cetera. They all fall flat on their face. They have a success rate of perhaps 1 or 2 per cent.

We are asking for an opportunity to let the native people themselves shoulder their own responsibility, carry their own weight in this country, be part of the architects of this country. We want to be doers along with the main actors in the country. We want to help

create a new fabric. We are not sure how much of our past we want to remain in the future. Our culture has evolved. It will continue to evolve, but the reality is that with the position that we have been put in, which has been very accurately reflected by the Premier from New Brunswick, the power base we come from--I mean why do you fear us, what can we do to you?

The point we are making is that we are prepared to be part of a very orderly, manageable process to implement our rights. To get back to the position that AFN has, we want to leave here being able to tell the world the Premiers, the Prime Minister has agreed the original people have a right to self-government. It is going to be entrenched in the Constitution. It is important to us that we have a very clear statement to that fact, and secondly, we work out how those rights will be implemented. The process will be through regional negotiations, that will be the way our rights will be implemented. We will work out all of the details with you.

I want to point out just one or two points in the other parts of the federal draft that we would like changed. It seems from the draft, it may be just an error in the way they drafted it, there can be no agreements it seems on self-government unless the provinces are a party to it. You have heard from PTNA, the Prairie Treaty Nations Alliance, and the rest of AFN is not that far removed from them. One difference might be that where some of us are prepared to enter into multi-party agreements, multi-lateral agreements, but I guess the concern we have

with the federal draft the way it is right now, it seems to exclude any possibility of bilateral agreements. And we think that that kind of flexibility only enhances the proposal. It does not deviate from the intent. Surely there will be situations where some province with a native group, a native organization, a First Nation somewhere, will be able to arrive at an agreement where there is no need for the federal government be a party and vice-versa, and there will be many situations where we will need all of the parties as part of the agreement. We think allowing for that kind of flexibility only allows for more options and it strengthens the position.

The provinces that have moved on side, I think, have listened intently to us and I think it is a large move on their part, and it is the beginning of a new trust relationship. I speak more to the provinces that are still considering whether they are going to support this proposal and telling you, you have nothing to lose and everything to gain. Let us become a positive energy in this country. Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Mr. Erasmus. Mr. Smokey Bruyere.

MR. LOUIS (SMOKEY) BRUYERE (Native Council of Canada):

Thank you, Mr. Chairman. I just wanted to make a couple of things clear in terms of where we are coming from. Mr. Devine brought up the question, what are the half million people in the cities going to do in terms of this whole proposal that is being put on the table now. Well,



once again, I think it is the dragging of the red herring much like the Minister of Indian Affairs in the last government did at just this same conference when he started talking about how many billions of dollars it was going to cost for implementing any kind of self-government in this country.

I do not think we are here to deal with red herrings. I think we are here, and I believe Mr. Devine is here as well, to really get down to the nuts and bolts of what we are talking about. We aint going to get to talking about that if we are going to start dragging out the red herrings and because we are on national TV raising them expectations to them people out there who are listening to us. We are not here, as has been said around this table by the Aboriginal groups, to take anybody's homes away from them. We are trying to work out a partnership within this confederation so that we can become masters of our own destiny. That is very important. You have it; we do not have it.

If you look at the proposal that we put on the table a while back this afternoon, in terms of 5(a) of that proposal, it deals with some of the questions that Mr. Devine brought up in the sense of who do you deal with in the cities, who do you deal with in the province or the territory, in terms of working out agreements. It deals with that. We are not trying to say that we want everything in behind closed doors. We put it on the table here to talk constructively about this kind of nation building.

This morning, when I made my opening remarks, I asked the Prime Minister to please clarify one situation for us. Where in your draft does it meet our concerns for Metis and non-status Indian people in this country, because I listened to the Honourable Mr. Crosbie a little while ago when he talked in terms of the Northwest Territories being able to have a land base, he talked about reserves being able to have a land base. As you know, our people do not live on reserves.

We live within communities. Mr. Prime Minister, you have said it in the sense where there are groups of people within a community, where that group is large enough, then you can have some sort of self-government for those people. In the cities, a lot of our organizations are looking at that very closely. Maybe the forum of self-government that they decide on could be an organization to deliver programs. Who knows what it is? The portion that is put out in this agreement said it is to be sat down and negotiated. I think that is what we are here for, to see what kind of an Accord along with entrenchment that we can get out of you people who are the ones who are going to make up your minds whether you are going to give it to us or not. All we want is in the Constitution the right of the Aboriginal Peoples of Canada to have self-government, along with the Accord in terms of working that out which we hope, along with you, Mr. Prime Minister, they can work hand-in-hand. We can change maybe the odd wording here or there. That is what we are here for and that is what I would like to get down to. I would like you to answer my question, Mr. Prime Minister, please.

THE CHAIRMAN: Mr. Crosbie will be referring to it, Smokey, at the end. He will be dealing with that.

I would like to go on. Premier Hatfield has asked; John is next; the Attorney General, Brian Smith, of British Columbia; and Richard. We will try and get everyone in by about 5:30 - 20 to 6, and then we will have arrangements for a meeting this evening that I will discuss with you.

Premier Hatfield.

HON. RICHARD HATFIELD (New Brunswick): Thank you, Mr. Prime Minister.

First of all, I want to say something about political accord. I signed a Political Accord in 1971 in Victoria. It didn't last very long because one of the conditions was that any one government could veto it, and one government vetoed it quite quickly. If that government had not done so, I think there were others who were ready to do so. I have signed another Political Accord with the Provinces of Nova Scotia and Prince Edward Island and the Government of Canada. The Government of Canada did not act on it promptly. There was a change of government, and the Accord is I don't know where.

I cannot really say, to protect the interests of the people of Canada and to protect the interests of the Aboriginal Peoples, that a Political Accord is the way to go. I want to also say that I think the Minister of Justice made a very good point when he talked about including in the Constitution clauses such as the clause dealing with regional disparity. I remember when Bob Stanfield brought that up in 1971. He did not think for a minute, with his legal knowledge, that he was going to be able to use that section to go to the Supreme Court of Canada and force the Government of Canada to put some kind of public work into Nova Scotia. However, he did think it was important, and every premier from the Atlantic provinces ever since have thought it was important, but we never could get it. We never could get it until we got agreement among all of the provinces and the Government of Canada. Now we have it, and it does mean something to us. It is not something that we can take to court. Maybe someone will create some kind of a situation where we might be able to use it, but it is important to us and it is important to what I



think this country is about. It is important that we have some sense of security that we are equal, regardless of where we live in this country; not equal 100 per cent, but that we have some chance at equality. Therefore, I think this is what I would like to see. This is why I feel so strongly that we must begin now to say to the people, to say to the 500,000 people in Regina, or whatever number there are, that have awakened every day ever since 1867 with the knowledge that they were not equal. They were part of this country, they were expected to serve this country, they were expected to contribute to this country in certain ways, they were expected to respect the laws of this country, but in a certain way they were not equal as Canadians.

Another very important part of Canada which is as true today as it was in 1867 is the belief that the people of this country could not be run by a single government in Ottawa. Yet, for so long we have believed that a group of people in this country -- the Aboriginal People or the Indian People -- can be run by the Department of Indian Affairs. They cannot do it, and they will not be able to do it. They cannot succeed. We are going to waste money, and we are going to continue to waste money because that will not work. It will not work any more. The Department of Indian Affairs, dealing with the Indian population of Canada, will not work any more and if the federal government tried to run all of the school systems in the provinces and all the hospitals in the provinces and all the highway programs in the provinces, and so on. I think we have to come to terms with this. As has been said, and has been said over and over again, the fact of the matter is that the eleven heads of government here

with further reference to their legislatures are only asked to sit down and start to negotiate on what self-government does mean as far as Aboriginal Peoples are concerned. That is all. If we do not reach an agreement or if we cannot reach an agreement or if they will not sit down with us, then nothing is going to happen and nobody is going to lose anything.

What really concerns me -- I must say, Mr. Prime Minister, because I think it has to be said, that I understand the magnitude of the concern of those Premiers from provinces such as Manitoba, Saskatchewan, Alberta and British Columbia have a different perception of this problem than Premiers coming from, say, the four Atlantic provinces because the situation is completely different. The figures are different, and so on and so forth. I understand their concerns. That is what I meant when I said earlier that we have raised our expectations in this country and we have also raised fears. Therefore, we have to find a way to try and get expectations to a publicly acceptable level and to allay fears that do really exist and which I think the Premier of Saskatchewan has expressed very well.

The other point I want to make is that the Premier of Saskatchewan and I were -- and I hate to blow their cover -- just on "As it Happens". We were supposed to be on at half past six, or whatever time it is here. In any event, I made the point that -- and I do not want to get into any argument, because I understand it. The fact of the matter is that an awful lot of people in the City of Montreal woke up one day and found out that they did not have the Constitutional rights that they had the day before because a government had passed a law which took those rights away from them. They used

the Constitution. First, I think, it was the British North America Act, and then it was the Constitution Act. They used them and they got those rights back. I think it is important that we have to be consistent. If we are going to protect the rights of the minorities, as the English-speaking population is inside the jurisdiction of the Province of Quebec, we will have to protect the minorities wherever they are. We are going to have to protect the minorities of the Province of New Brunswick. We tried to do that by bringing into the Constitution provision for equalization and provision for recognition of regional disparities. The former government was not living up to the principles of those sections, and your government is now having to address them, and they are addressing them. I think one of the reasons they are addressing them is that they know that the old process did not work. The question of whether or not the provinces are going to be involved in dealing with the Aboriginal Peoples is one that has been decided, Mr. Prime Minister, by the Constitution Act of 1982. I say to the Aboriginal Peoples that you came to this table knowing that that was in place, and unless you advocate that we agree to some kind of an amendment, there are certain powers that are going to impact significantly on the Aboriginal Peoples that the Government of Canada do not have the right to negotiate. They did not ask for it, it has been declared to be a provincial right and, therefore, there is going to have to be some way. We can work that out. We have worked it out in other areas, and we can work that out.

I must say that I agree -- I think this is important; I have said this consistently in New Brunswick --



that we recognize that as far as the Indians are concerned they are the responsibility of the federal government and they must be. In the interests of the people of New Brunswick, they must be a responsibility of the federal government; and in the interests of the Indians of New Brunswick, they must be a responsibility of the federal government, because we both need the federal government. We have to live with that and accept that, and we do with pride because that is part of being Canadian. I think we have to move or we are going, as I said earlier, to be pushed. I think that is inevitable. We did not move in 1971, and we were pushed. I do not want to go through that process again. It was not a happy occasion. I would rather take the position and the initiative of leadership and, as the Minister of Justice has said, take some leaps in the dark. However, I know that those leaps in the dark, for the provinces west of Ontario, are bigger leaps than they are in the provinces east of Ontario. Thank you.

THE CHAIRMAN: I know, Mr. Premier, that no one will begrudge me the comment that as long as Richard Hatfield sits around a table like this, Canadian minorities wherever they are will have an unrivalled champion. Over fifteen years, I think you have clearly established that and I salute you for your consistency and your tremendous accomplishments in that regard.

John Amagoalik, please.

JOHN AMAGOALIK (Inuit Committee on National Issues): That was close, but I think J.C., sitting by your side, can help you on the proper pronunciation.



THE CHAIRMAN: I almost got famous by the name of "Bryce Malooney"!

JOHN AMAGOALIK (Inuit Committee on National Issues): First of all, I want to make it very clear that I feel that much progress has been made over the three years that we have been involved in this process. As my partner to my left here indicated a while ago, we only had one government on our side when we started; today we have five or six. It is really clear to see the way this process is going. I believe it is only a matter of time before our right to self-government is recognized. It is either tomorrow, next year, or two years from now; it is going to come. We are extremely happy with the kind of support we have been getting from the Government of Canada and from the provinces. It is extremely encouraging to listen to people like Mr. Hatfield and the Premier of Ontario, Mr. Miller, and Mr. Pawley. It is very, very encouraging, because we have never experienced this sort of support before. We are getting support from the federal government. We have had it before, but we have never had it with such vigour and conviction before. However, some provinces are still seeing paper demons in this proposal from the federal government. They are raising fears in much the same manner that people in the Northwest Territories started doing some years ago when we first started talking about Nunavut but those fears have dissipated. I suspect that these fears that some of the provinces have now will also dissipate.

There is really nothing for the provinces to worry about, because the negotiating process is in your hands. It is something that you are going to have to agree to.

Nobody is going to force you to sign an agreement which you do not want to sign, so the process is in your hands. Nobody is going to force you to do anything. If certain provinces still imagine the presence of demons in this proposal, they can call us and we can do some "ghost busting" for them. Thank you.

THE CHAIRMAN: Attorney General Smith, please.

HON. BRIAN R.D. SMITH (Attorney General, British Columbia): Thank you, Mr. Prime Minister. We want to persuade you and all of you that we can work toward self-government in a pragmatic way without coming away from this meeting with Constitutional tablets. I know there is a desire to have a Constitutional tablet, and it would be reassuring, I understand, as well, to many of the Native organizations if such a tablet could be produced which would enshrine protection of self-government. We urge you to look at it a little differently.

If you constitutionalize prematurely when there are divisions and when people have misgivings about the wisdom of that, then it seems to us that all you ensure is that the Courts are going to ultimately interpret the arrangements, the self-government arrangements, instead of ensuring that those arrangements are worked out by the parties. We, in British Columbia, have probably a unique situation, Mr. Prime Minister, because we have approximately 60,000 status Indians and an even larger number of non-status Aboriginal representatives, and we have only treaties in that part of the province that lies east of the Rocky Mountains, that small part of the province. The rest of our province never had formal negotiated treaties. When we entered Confederation, one of the terms of

our entry into Confederation was that the federal government would assume and take on all of our financial responsibilities in regard to Indians under Term 13 of our Terms of Union. So, if it is established in British Columbia, as is seeking to be established by the various Native Bands, that there is Aboriginal title to lands, the consequences of that on the Treasury of Canada will be very major and very horrendous. I mention land claims, because that is one of the major issues. It is an issue of dollars, really -- it is an issue of major dollars. That underlies Aboriginal issues in British Columbia. Self-government is related to land claims. It is related in a number of ways. It is particularly related because it is sought as part of self-government for the Native Bands to have co-stewardship over resources, and there are claims that indeed they own and have always owned these resources. We have two major cases before the courts in British Columbia, one brought by the Gitskan Carrier Band that claims Aboriginal title over about 20,000 square miles of northwest British Columbia. The other, relating to Meares Island, raises similar issues. These issues will be litigated and will be decided in the Courts. If they are decided in the interests of the Natives, then there will be major claims on the Treasury of Canada. We say that that is not where self-government should end up. Self-government should be worked out by reasonable people at the federal, provincial, Aboriginal and local levels, doing on a Band-to-Band basis what David Crombie has been doing in his own, I think, very fruitful travels around this country; trying to deal with problems practically on a Band basis, province basis, regional basis.



What we should be doing, Prime Minister, is working out those arrangements. Quebec has done this; Alberta and Premier Lougheed spoke of a similar approach. Do that, and sure, when we have agreements and arrangements that maybe can take a more formalized shape afterwards, then to come back and look at the Constitution and try and construct a tablet which we are not divided on, but which we all agree on. We would urge that sort of approach.

I thank you for your superb chairing of the Meeting, for your interactions, your good Irish wit, and for the sunny disposition you have brought to these deliberations which I have been involved in for a year and a half, and they have not always been sunny.

THE CHAIRMAN: Thank you, Mr. Smith, very much. We are aware, Mr. Attorney General -- I think Premier Devine referred to it and Premier Hatfield as well -- that the gravity of the problem varies by region. I think people are conscious of that and trying genuinely to seek a consensus in recognition of it.

We have two or three more people who would like to speak. I want to make sure that those who have not yet had the occasion of speaking today be heard. Joe, you have not yet been heard. Would you please go ahead?

MR. JOE COURTEPATTE (President, Alberta Federation of Metis Settlement Associations, Metis National Council): Thank you, Mr. Prime Minister. I represent the Alberta Federation of Metis Settlement Associations.

Just a brief background. We have 1.25 million acres in Alberta. We have eight settlements, and we are the



only land-based Metis in Canada.

I am pleased to be able to look around this room today and feel confident that although the Aboriginal Peoples of Canada may have lost some battles in the past, we certainly have not lost the war. With the leadership we have here today, the Aboriginal leadership, we will ultimately win our common goal, which is the Constitutional guarantee of our survival as Aboriginal Peoples.

The Constitution has finally recognized us as three Peoples: the Indian, Inuit and Metis; three People with different cultures but common roots, which is the land. As each of us seek to obtain the best protection for his people or for our People, we have sometimes been sidetracked by our differences and have forgotten this common ground. However, it seems today, ladies and gentlemen, that we have not forgotten this common ground. This is a Meeting with a lot of co-operation and common goals here today, it is obvious.

It is the land that forms the basis of our cultures and the land that we seek to govern ourselves. Neither cultural preservation or self-government are possible without the preservations of our land. I speak specifically about our settlements in Alberta; however, I also speak on behalf of all the other groups who are speaking in regard to obtaining land or the protection of the land that does now exist.

I was forcefully reminded on the way to this Meeting of the price Aboriginal People have paid for progress. As the plane took off from the Edmonton International Airport on the Pappas Chase Reserve, this priceless Indian land is gone, a victim of the pressures of big business. As we flew east over

the Wolf Lake Metis Settlement, the current site of Esso Resources, Northeastern Alberta, heavy oil equipment; it is gone. A Metis settlement no longer exists, as the Premier of Alberta pointed out this morning, quite correctly. As we passed over Saskatchewan, I became aware of the Moose Mountain Reserve, 45,000 acres of prime agricultural land, gone.

These are all lands that had been specifically reserved for Aboriginal Peoples, land set aside for us to govern ourselves and maintain as cultural homelands. All gone.

If we get nothing else from this Constitutional process, we must get one thing: a Constitutional commitment that this will never happen again to the lands that presently exist. We do not want them taken away.

As the conquest of this country swept from east to west, it was the land we lost. With it we lost much of our culture and our power to govern ourselves. Our communities have fought this onslaught in many ways in the last century with guns, and in this century and here today with the law. But the pendulum of plunder has stopped. The recognition of our Aboriginal rights in the Constitution of this country was the turning point. The decision of the Supreme Court of Canada in support of the People of Musqueam in British Columbia marked the beginning of the swing-back to full recognition of our rights.

Our goal at this First Ministers' Conference is to continue to process to constitutionally protect our fundamental communal rights of land, culture and self-government. To achieve the goal, however, we have to be tough but realistic. The federal government has made a proposal that this First

Ministers' Conference recognize certain rights in the Constitution, subject to giving content to these rights through negotiations.

Work has begun, however, with the Government of Alberta to develop a new Metis Settlements Act that will give content to the right of self-government for the Metis settlements. However, from our discussions with our provincial leaders, it seems that some provinces -- and it is obvious here again today -- would like greater clarification of a federal initiative. Nonetheless, there is a common ground that can produce meaningful progress at this First Minister's Conference, and yet provide time for careful study of future Constitutional provisions.

At this First Ministers' Conference, there should be a political Accord of all Aboriginal Peoples and all governments of Canada that recognize certain basic Aboriginal communal rights that should be clearly stated in the Constitution, which establishes the mechanism for delineating the content of these basic rights through local negotiations, and provides for the entrenchment of those delineations in the Constitution. In particular, we believe that there should be common accord that every Aboriginal community has the right to preserve its land and culture and to manage its own affairs. These communal rights of land, culture and self-government being as essential to the survival of the Aboriginal Peoples of Canada as the individual rights of the Charter are to the functioning of a free society should be entrenched in the Constitution.

Where these communal rights have been wrongfully taken, there must now be honest efforts by the governments and

Aboriginal Peoples of Canada to achieve a full and prime agricultural -- do you believe it, I just lost my space.

All participants shall work towards the objective of entrenching both basic rights and the procedures for the local delineation of the 1987 First Ministers' Conference. We believe, also, Prime Minister, that this is a practical step that will help the pendulum continue to swing away from the deprivation, toward dignity, dignity based on our knowledge that our land is secure, our culture free from attack and our communities free to manage their own affairs. That is our common goal. With hard work, I know that we can achieve this.

It would almost seem, Prime Minister and everyone else, that we have been granted a divine right to speak here today. I look forward to only good things happening

THE CHAIRMAN: Thank you for your good words. There is one person who has not spoken yet, Fred House. I would like to hear from him, with your permission. Then we will go to two people who have already spoken, on the clear understanding that apart from the logic, their interventions be marked with brevity so that we can adjourn at about quarter of six at the latest.

So, Mr. House, Harry Daniels, Richard Nerysoo, and that is it, unless somebody has his hand up that I have missed, quarter of six, it is goodbye time.



MR. FRED HOUSE (President, Louis Riel Métis Association, British Columbia): Thank you very much, Mr. Prime Minister, Premiers, Aboriginal Peoples and the viewers across the country.

I would like to, of course, remind the provincial Premiers and their colleagues, the Attorneys-General and the Minister of Intergovernmental Affairs, Garde Gardom, that everybody is up for election at one time or another. I understand in British Columbia there is a pretty heavy campaign on, and it would probably be nice to join that campaign.

When we talk about defining rights, defining self-government, I would like to put it back to British Columbia: How did you define restraint, because it did not take too long for the people of British Columbia to find out what restraint was. All of a sudden there were education cut-backs; all of a sudden there were no jobs for the Public Service employees; all of a sudden there was no work, period, across the province, coming down to a slow-down, where, all of a sudden, even the welfare lines were very high but getting very little dollars from the welfare because of the restraint program. People could not live a proper life: Running short to pay their power bills; running short to pay their rents; running short to purchase clothing for the children; running short to purchase their food.

Then, eventually, of course, a lot of our people end up in jails in British Columbia because of the restraint program which was not defined to them. I guess this is why Mr.

Bennett wants to define self-government so that this does not have the adverse effect that restraint had in British Columbia. Bennett, you know, just a shot -- up that way.

But the real thing, I guess, Mr. Prime Minister, is that I am very proud of the paper that you have presented to us. We think it is a good working paper, that we can develop a lot of good things around the paper. We also recognize, Mr. Prime Minister, that as time goes on, if we do entrench the right to self-government, the right to a land base, there will be agreements worked out through the federal-provincial governments and the Aboriginal Peoples. I think that through those negotiations the provinces will be able to negotiate what they think their rights should be, as well as, of course, the Aboriginal Peoples and the federal government.

So, as we go through the negotiating process, as we negotiate packages for entrenchment, we can move along with a learning process, I guess, because it is very hard, Mr. Prime Minister, to define an item and find out how it is going to turn out 15, 30 or 60 years from now. I think it is something that we put into motion and build onto as we move along. Certainly, the social and economic conditions that our people face across the country cannot be dealt with over a period of a few years. We realize we have been in this situation for over 100 years, and we recognize that it is not going to happen over night.

But we do see the very positiveness of your government, and I have to congratulate you for that approach. Possibly, if you were the Prime Minister at the time Riel and the boys were

in the west, the Metis would be full participants of Canada today through a person like yourself. Of course, Sir John A. at that time did not do his job as well as you are doing today, and we hoped that he did!

Anyway, I guess you know the thing is, Mr. Prime Minister, that you are not responsible for what Sir John A. did. We want to say that there have been tough times, but we recognize the positiveness of your program, your proposal, and we recognize that you want to do something with it very positively to alleviate the problems we face as people. We do want to become participants in the development of Canada. We love this country; we know what this country can do. We know that this country is now made up of many ethnic groups from all over the world. We are proud of that, but we do not have much, as people, to share with these other ethnic groups.

Perhaps, if you provide us with the self-government, the opportunity to become self-supporting citizens, we can be of more help not only to our people, but to other people that now live in the whole Canadian mosaic here in Canada.

With that, Mr. Prime Minister, we hope that the officials meeting tonight can work over the paper a bit which you have presented today, and that the Governments of Alberta, Saskatchewan and British Columbia think very seriously that for really once -- I know they have done some things for Aboriginal Peoples -- in their lifetimes as Premiers, do something that means something to a whole nation of people, of Aboriginal Peoples. My golly, you fellows will go down in history as

accomplishing something in your lives. Like Zebeedee says, we may put up those statutes up there. With that, Mr. Prime Minister, I have enjoyed observing, as well as participation in the Conference. I know that tomorrow is going to be a productive day. I can see Bennett smiling, and all that. We hope that things will turn out for the betterment, not only of the Aboriginal Peoples, Mr. Prime Minister, but your government, as well as the other provincial governments and territories of this country.

Thank you.

THE CHAIRMAN: Thank you. I think you almost did not make it.

Harry, very quickly.

MR. HARRY DANIELS (Native Council of Canada):

Can I be as brief as Fred?

Thank you, Mr. Prime Minister. If indeed we are going to have a drafting session upstairs with either Ministers of the Crown or officials, I just want to point out to those people who have expressed the fear of not having enough checks and balances existing when you come to dealing with self-government for Aboriginal Peoples.

I just want to take a very fast hypothetical. Suppose we did put in the Constitution tomorrow that the Aboriginal Peoples of Canada had the right to self-government within the Canadian Federation? Then we write in, in Section 35.02, the Government of Canada and the provincial governments are committed to the extent that each has jurisdiction to



negotiating and concluding agreements relating to self-government with representatives of the Aboriginal Peoples. Those are our proposals for inclusion in the Constitution.

In an Accord, we outlined exactly how that would take place. That is all we have to agree on. I was going to read these for Mr. Devine and others, but if he wants to instruct his people to draw their attention to items 4, 5 and 6 of our paper before you instruct them, Mr. Devine, I would really appreciate that because I think it hives it off. There are time frames. We talk about the nature of powers and jurisdiction; we talk about the timing, the nature, the scope of negotiations, the parties, the process and the resources necessary for it.

So, there are checks and balances in here. It is not as though we are trying to be frivolous with the Constitution of Canada, to change it just to change the Constitution. That would be damaging, from our part, as well. To be party to that kind of an exercise, we would be doing an injustice to our people to tie them into that kind of a thing where you have no checks and balances. That has happened to us before; we do not want it to happen to us again.

So, we are prepared to sit down and talk. If we have to have a lag time of three, four or five years, let's do it; let's do something. To paraphrase Freddie House, we will accomplish something in our time.

THE CHAIRMAN: Thank you, Mr. Daniels.

MR. HARRY DANIELS (Native Council of Canada):  
Thank you, Mr. Prime Minister.

THE CHAIRMAN: Mr. Nerysoo.

HON. RICHARD NERYSOO (Northwest Territories):

Thank you, Mr. Chairman.

I do not want to disrupt or divert the true purpose of the Conference, but I do wish to raise the concern I have with regard to the document that was tabled by the Government of Canada. It relates to the participation of the Territories.

As you know, we have been participants, as a government, since the original Section 37 was established, and more recently, with regard to participation as it relates to Section 37.1.

Now, Section 37 of the Charter of Rights and Freedoms states that the two Territories are to be treated like provinces for the purposes of the Charter. This is, in fact, part (2) of that particular Charter. There have been a number of documents which have been tabled. In fact, in one particular case -- and not to discredit the document of the Native Council of Canada -- the reality is that the Aboriginal Organizations and the federal government and the provinces would determine our role. In the case of the Assembly of First Nations, there is no role.

So, Mr. Chairman, I would maybe suggest the following, in the spirit of compromise. It would be a new Section 35.1(3): The Government of Canada and the Government of the Yukon Territory and of the Northwest Territories are committed to participating in negotiations and agreements referred to in paragraph (2)(a), and the Prime Minister of Canada shall invite

elected representatives of the Government of the Yukon Territory and of the Northwest Territories to participate, where, in the opinion of the Prime Minister, such negotiations or agreements directly affect the Yukon Territory or the Northwest Territories, as the case may be.

That would be my recommendation for a new Section 35.1(3).

THE CHAIRMAN: Thank you, Mr. Nerysoo. A final word -- one minute -- to George Watts.

MR. GEORGE WATTS (Assembly of First Nations): Thank you, Mr. Prime Minister, for the opportunity just to speak back to what British Columbia said.

It is hard to talk to somebody who is not sitting in his chair. I see he has disappeared again, but I will make my remarks anyway.

I think you should be a bit leery, Mr. Prime Minister, about somebody who is suggesting to you that they take part in the negotiations, but that you pay all the bill. I would not want them around, I do not think.

But, Mr. Prime Minister, I have a hard time accepting what the Province of B.C. is saying, that you should spend money in buying land off them that they stole off us to give back to us. There is something wrong in the system when you have to sell back something to somebody that he originally owns, and I think we have got to get away from this kind of discussion around this table if they want to reach some real agreements about where Native People are going to lie in this country because you know and I know that the taxpayers are not going to go broke if there is a land claims settlement for Indian People in British Columbia. All we are asking for is our rightful share in this country and it is people like Mr. Bennett who are going to have to give up some of that land, because it rightfully belonged to us to begin with and should not be used as a scare tactic so that we cannot have Indian self-government in this country. Thank you.

THE CHAIRMAN: Before this degenerates into a political debate and you know how offended I would be by that. I just want to say, as George was going to speak, Premier Lougheed asked for a moment and I would of course grant Premier Bennett equal time.

HON. PETER LOUGHEED (Alberta): Prime Minister, I just want to make sure that we do not have misunderstandings here. I have heard conversations about meetings tonight and certainly if we are invited our people will be there. I am sure you are going to comment on that but I want it understood that we are not into a situation that was misinterpreted two years ago, that that participation involves concurrence with an approach because if anything something has happened today, this afternoon in particular, that has substantially reinforced the Alberta point of view.



I was involved prior the Conference in 1983 with a question of the representation at the table and the representation at the table by the Metis National Council in addition to the Native Council of Canada, and I believe that fairly quickly supported that view, that those voices should be expressed and that they should be here and I think over the Conferences that I have been at that has been very positive. A decision was made, sir, and I am not questioning it, that the Prairie Treaty Nation Alliance not be at the table but they made some presentations today that were important, Chief Snow and Mr. Cardinal and Mr. Sanderson and they have not been mentioned during the course of the afternoon, but I am in the position as the Premier of Alberta of trying to assess the situation in terms of the citizens of our province, but I am also being told pretty directly as you heard by the Treaty Indian People in our province, that they do not want to proceed with the approach that is now before the table and I think it is important that that be underlined. They made a good presentation, they explained why they believe they have Treaty rights with the Crown of Canada in Right of Canada and they want to make that approach directly and it is appreciated I think by you, sir, and others. So I just wanted to underline that that has reinforced the Alberta position presented this morning.

THE CHAIRMAN: I understand that, Mr. Premier. I interpreted it somewhat differently in the sense that Mr. Cardinal and others were throwing out a caveat but indicating that there might be a compromise which they would find acceptable at discussions to be held tonight. I hope that is the case but I want to assure Premier Lougheed and anyone

else that while there will be a very important meeting held this evening under the Chairmanship of Mr. Crosbie attendance does not imply concurrence. Now you probably would have difficulty getting out, sir, if you do not concur but, no, you are quite right. We are going to try to persuade people to the acceptance of a mutually agreed upon resolution if that is possible, that is clearly why we are going to hold the meeting but the motives of no one will be impuned should we fail to persuade you of our view. Premier Bennett.

HON. WILLIAM BENNETT (British Columbia): Yes, Prime Minister, just in answer to Mr. Watts, the difficulty in trying to personalize the discussions probably makes it more difficult for British Columbians, who are quite willing to listen to those who would base their case on a history that is unwritten and then have difficulty understanding why spokesmen would deny the history that is written and that is the Terms of Union on which British Columbia entered Confederation and the words are there for all of us to see. And so therefore I would hope that there would be some understanding that this land called British Columbia and our Terms of Union cannot be personalized to me. I wish I had been there.

And also, Prime Minister, the mistaken conception that dollars paid by Ottawa are not taxes collected in British Columbia, I want to make it very clear that the taxpayers of British Columbia are not only generous within their provincial foundation but make a contribution beyond our population base even in these recessionary times to Canada. I notice we are still, even though some Premiers and some politicians have been concerned about the administration in British Columbia, that they are getting extra equalization at

a time that we are still paying and I would not really want that to be lost on any of the people watching this Conference or making statements within this room.

THE CHAIRMAN: I thank you, Mr. Premier. I am aware of the exceptional difficulties that the people of British Columbia have had because of the resource-based economy and I know we are trying to be helpful and working in close association with your government to get things back on the rails. There is no partisanship in a statement like that. As I said in another circumstance, I am not afraid to inflict prosperity on Newfoundland, and when we signed the Accord John Crosbie said hallelujah, whip away.

Colleagues, Mr. Crosbie will indeed be chairing a meeting in the Centennial Room of the 5th floor at 8:00 p.m. The participants will be the Ministers and the official representatives of the Aboriginal Associations. There will be very limited seating and there are passes to be obtained from the Conference Secretariat. It is clearly with a view to attempting to find common ground if possible, which will allow us to deal with this great issue before us.

HON. ROLAND PENNER (Manitoba): A point of clarification if I may, Mr. Chairman, you suggested a rather limited list and I presume Ministers like myself who do not know much about the law can bring at least our legal advisors. I would not dare enter a room with John Crosbie without my legal advisor close by.

THE CHAIRMAN: Are you the Attorney General of Manitoba?

HON. ROLAND PENNER (Manitoba): Just ask Dr. Morgentaler that question.

THE CHAIRMAN: I will not say another word but indeed, sir, you may bring a lawyer with you. We know the substance of the resolution. I just remind you of the good words of President Harry Trueman who observed that "There are no great men, there are only ordinary men who rise to meet great challenges" and we have got a great challenge tonight, and that great challenge is to try and secure a degree of dignity for our Native Peoples. I think we can do that. We are well on our way and I wish you well as we complete the voyage and I will see you tomorrow morning at nine. Thank you very much.

--- 5:50 P.M./17h50



FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

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CONFERENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

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(unrevised and unofficial)

Morning Session of  
April 3, 1985

COMPTE RENDU TEXTUEL

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(non révisé et non officiel)

Séance du matin  
du 3 avril 1985



--- 10:45 A.M./10h45

THE RIGHT HONOURABLE PRIME MINISTER

BRIAN MULRONEY (Chairman/President): May we begin, please.

Sommes-nous prêts à reprendre nos délibérations, messieurs les Premiers ministres et messieurs les délégués?

(Morning Prayers in the Native language)

THE CHAIRMAN: I have learned, Colleagues, that there are a number of shades of opinion on these matters, a great many different opinions and views at work, almost as many as in the federal Conservative caucus on any given point. However, people have been working very hard last night and throughout the night, and I began again with meetings early this morning. I think people around this table are searching for an honourable compromise on the vital issue of self-government.

The Government of Canada has put forward a proposal which we believe to be fair and equitable, and other governments and other delegates have ideas and views which could be beneficial. We are trying to assess the impact of these.

I have a small group of people meeting now under the direction of the Honourable David Crombie to step back somewhat from the heat of the activity and the draftsmanship and look at the situation rather more dispassionately and to come back and see us just as soon as they can so that discussion can revert to the principal item on our agenda today. We have other questions to discuss, which we shall, but I think we would want to, as soon as possible, get back to Item No. 1.

Il s'agit, évidemment, d'une question des plus complexes, question qui a bafoué les plus grands esprits du Canada depuis maintenant au-delà de 100 ans, et je demanderais à tous les intervenants d'être patients, de faire preuve de modération dans vos interventions et vos analyses et de reconnaître que, de part et d'autre, la recherche d'un consensus est toujours plus pénible et moins dramatique qu'un geste à l'emporte-pièce.

Vous savez qu'on a vécu trop longtemps avec des coups de théâtre. Je vous demande de prendre la voie plus productive, c'est-à-dire celle de l'écoute, de la consultation, et de rester à la table auprès des interlocuteurs.

Je demeure persuadé que nous sommes dans la bonne voie. Monsieur Daniels faisait remarquer hier que déjà on constate du progrès. Les autochtones ont commencé avec un gouvernement qui les appuyait, hier nous étions à cinq; la nuit porte toujours conseil. Alors, sommes-nous à six aujourd'hui, peut-être à sept, on ne le sait pas, mais il s'agit d'être prudent, de ne pas poser des gestes ou faire des déclarations. Attendons, et nous aurons l'occasion dans peu de temps d'en discuter davantage.



The easiest thing in the world is to pack it in, and then you do what? The hardest thing is to find an honourable compromise which involves honourable men and women, and that is the case with everyone around this table; each of us in his or her own way searching for a result that will bring dignity to our Native Peoples and a workable solution to a problem that has stymied this nation for much too long. I ask for your consideration of each other and I ask for your patience. It takes a little time. The day is not over; it is just beginning. I apologize for the inconvenience of starting late.

While we await Mr. Crombie's dispassionate analysis of our debate, I welcome the newly elected representative of the Government of Newfoundland and Labrador and I convey to him my congratulations and good wishes at being here. I thank the Government of Newfoundland for their support on the federal position. I understand that you were otherwise occupied yesterday.

I would like to say a few words, pending Mr. Crombie's arrival, in regard to our agenda Item No. 2.

The federal government supports the principle of equality between Aboriginal men and women. Our commitment to this principle is longstanding and one which we intend to honour, both in the spirit and the letter of the law.

I understand that during the process leading to the 1984 First Ministers' Conference and during the preparation for this Conference fairly detailed discussions took place on the adequacy of present Constitutional provisions relating to equality rights for Aboriginal men and women. Mr. Crosbie informs me that at the recent meeting of

Ministers, Premier Hatfield, for example, spoke very strongly in favour of adopting a clarifying amendment at this Conference and was supported in this regard by several other participants.

J'espère, collègues, que nous pourrons aujourd'hui régler cette question à la satisfaction de tous et éliminer une fois pour toutes les appréhensions et la confusion qui peuvent exister à ce sujet.

Il importe toutefois de souligner que la modification proposée devrait avoir pour unique objet de renforcer les dispositions relatives à l'égalité des sexes qui peuvent paraître comporter des lacunes. Je ne suis pas prêt à souscrire à une modification visant directement ou indirectement quelque autre objectif.

Nous pourrions peut-être maintenant déterminer si nos positions concordent suffisamment pour nous permettre de donner suite à cette proposition. Pour nous aider dans nos délibérations, je vous ai fait distribuer plusieurs versions possibles d'une modification constitutionnelle qui ont été déposées à différentes étapes de l'opération en cours.

I am not unaware of the difficulty that this particular provision has caused certain Bands across the country. It, too, I hope, is sensitive to that reality and is sensible to the moral imperative upon all of us in regard to equality for women across Canada, wherever they may be.

So, without attempting to pre-empt an argument or to bulldoze anyone's opinions, I would like to hear from you on a fair basis and begin, if I may, with Premier Hatfield, who has over many, many years taken an eloquent position in

this regard. Premier Hatfield.

HON. RICHARD HATFIELD (Premier, New Brunswick):

Thank you, Mr. Prime Minister. I think the fact that it was a woman from New Brunswick who began the process through the International Human Rights Commission to try to bring about, and did successfully bring about, pressure on the Government of Canada to act on the Indian Act, and it was because of the concerns that have been expressed to me by Indian women that I feel it is absolutely essential that we begin the whole process of self-government with a clear declaration of equality of men and women.

To repeat something that I said yesterday, it is a pretty essential ingredient in the Canadian character to respect equality, and if that is not understood by everybody, then whatever other objectives they may have they will not succeed. Therefore, I think it is quite important.

I agree, Prime Minister, that what we are talking about here is recognition of equal status for Aboriginal females and males and not trying to expand rights or what have you. The problem that I think we are having is wording, and I would like to hear from others. We may have something more to say later.

LE PRESIDENT: Monsieur le ministre.

M. ELIE FALLU (Ministre délégué aux Relations avec les citoyens): Monsieur le Premier ministre, permettez-moi de céder mon droit de parole au docteur Marie Two-Axe Early, qui est fondatrice et présidente de Equal Rights for Indian Women.



MARIE TWO-AXE EARLY (President, Equal Rights for Indian Women, Quebec): Mr. Prime Minister, provincial Premiers, brothers and sisters: I am here today without the benefit of legal counsel. My group has never been given sufficient funding to obtain legal and research help. I cannot make sophisticated legal arguments, but I have a very important knowledge of the pain that so many of my sisters have suffered under 12(1)(b) of the Indian Act, that discriminatory clause that has stripped them of their cultural identity, exiled them from their communities and separated them from their families. I have been outraged and angry but I have been so helpless as a victim as well as an observer of the devastating effect on so many women who sought comfort with drugs and alcohol. My eyes have seen enough suffering among the women and their families. My senses have been numbed, as I have been told by widows, mothers and sisters of their despair.

This is the third Conference on Native Rights, and there are no women representing womens' groups at this negotiating table. We speak to you through the good will of our Premier, Mr. René Levesque. Mr. Bruyere has said he is prepared to table the question of equality. He can afford that because he is not a woman. The women I represent cannot wait.

Last year, at the First Ministers' Conference on March 8, the former Prime Minister announced that the discriminatory passages of the Indian Act would be repealed. When the Conference failed to reach a consensus on the question of equality of Indian women, Mr. Munro delayed action and did not produce a Bill until the last few weeks



of Parliament. We all know what happened to Bill C-47. Now, a year later, a new Bill promises only partial justice.

We Indian women have fought a long and bitter battle for justice for ourselves and our children. This fight has not been against our brothers. It was the Canadian Parliament acting without consultation that wrote the Indian Act in 1869 and imposes injustice on Indian women. Therefore, it should be a Canadian Parliamentary responsibility to repeal 12(1)(b) and reinstate the women and their children who have lost status because of it. We have walked the long path of broken promises. We want no more promises. We want our equality to be proclaimed through legislation and enshrined in the Constitution, and then we will give our full support to self-government when Indian men and women are treated equally. Then, they will be able to work together to build a strong Indian nation. Together we can begin to address the problems of poverty and despair that affect so many of our people. Thank you.

THE CHAIRMAN: Thank you, Mrs. Two-Axe Early. Premier Bennett.

HON. WILLIAM R. BENNETT (Premier, British Columbia): Prime Minister, British Columbia supports the amendments, although we are willing to listen if there are concerns from other quarters.

It was our advice that the Constitution did, as written, provide these safeguards, but if these additional safeguards can be provided by putting more precision into the Constitution rather than leaving it unclear -- as you know is our position in other areas -- then British Columbia wholeheartedly supports the addition of this amendment to provide

such provision. Constitutions, as well as providing rights, should be definitive and precise in the areas of opportunity that the Constitution provides.

I can support the concern of Mrs. Two-Axe Early and others who have led the fight in this regard and let you know that British Columbia supports it.

THE CHAIRMAN: Thank you, Mr. Premier. I appreciate that intervention and support. Richard.

HON. RICHARD NERYSOO (Government Leader, Northwest Territories): I recognize that most provincial governments and the federal government are of the opinion that the sexual equality provision currently contained in the Constitution Act is adequate protection. However, there is concern amongst the Aboriginal organizations that Section 35.4 does not fully meet their concerns. They wish to make it absolutely clear that the sexual equality provisions not only guarantee equality between male and female, but that all rights and freedoms under Section 35.1 are equally guaranteed.

In recognition of this concern and for greater certainty, I suggest that we amend the Constitution Act by including a provision that would meet this perceived shortcoming. We see this as a very important matter to resolve, and if there is any doubt as to how the sexual equality provision might be interpreted, then it is incumbent upon us to make clear these intentions.

The question of which section of the Constitution Act to amend has been the subject of a great deal of debate. Amendment to Section 25 seems to be favoured by the Aboriginal organizations, while some governments, including the Government of the Northwest Territories, agree that if there is to be an amendment of this nature it might be to Section 35.4.

As has been the case in the past, Mr. Chairman, and in our proposal, as was tabled today, we would prefer that particular amendment, and that amendment would be a new Section 4, notwithstanding any other provision of this Act, all rights and all freedoms of the Aboriginal Peoples of Canada and the Aboriginal Peoples on Treaty rights referred in Sub-section (1) are guaranteed equally to male and female. That would be our suggested recommendation if there would be an amendment.

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Mr. Nerysoo. We will hear now from Premier Pawley.

HON. HOWARD PAWLEY (Premier, Manitoba): Prime Minister, we strongly support the equality rights for Aboriginal women. We have listened to the representations that have been made to us by Native women in respect to their very real concerns and the very real doubts that they have insofar as the effectiveness of our 1983 amendment. We had thought that our 1983 amendment had effectively dealt with this problem, but in view, Mr. Prime Minister, of the continuing doubts and concerns that we have heard from Native women's organizations, I want to advise you that Manitoba is prepared to work towards any improvement in the wording that will add precision so we can ensure, indeed, that sexual equality that we sought in 1983 is in fact reflected in the final product.

THE CHAIRMAN: Thank you, Mr. Premier.

Premier Lee.

HON. JAMES LEE (Premier, Prince Edward Island): Mr. Prime Minister, Prince Edward Island certainly has favoured this amendment for the past two Conferences. We feel, as I said



yesterday, similar to what Manitoba has said just a moment ago, that if there is any doubt at all -- and there seems to be among some of the Native Women's groups who have spoken here today and before -- we are prepared to support the removal of that doubt and strengthen it, and put it in a form that certainly will be acceptable to everyone. We support this and will be prepared to work with the proposed amendment that was suggested here today to do just that.

THE CHAIRMAN: Thank you. Premier Lougheed.

HON. PETER LOUGHEED (Premier, Alberta): Prime Minister, our position on this matter is that essentially, as we understand it, it has become a legal issue and a question of what is needed to be done. It seems to us clearly within the federal jurisdiction.

You and your government have reached a conclusion, and for that reason, we believe that we should support your conclusion. If it requires an amendment from your point of view within the Constitution, we certainly would support that.

THE CHAIRMAN: Thank you, Mr. Premier.

Did I see Mr. David Ahenakew's hand up?

MR. DAVID AHENAKEW (National Chief, Assembly of First Nations): Thank you, Mr. Prime Minister. The other evening I handed out a letter to the Prime Minister and to all the Premiers -- I hope they received it -- dated April 1, 1985 and it is not April Fool's Day; this is very serious. In that letter, which was signed by six different national associations, it clearly spells out what we believe should be the equality provision in the Constitution and the appropriate amendment to be made.



Before I go any further, Prime Minister, I would like to have Marlyn Kane, who is the President of the National Native Women's Association of Canada, speak on the issue.

THE CHAIRMAN: Miss Kane.

MISS MARLYN KANE (President, National Native Women's Association of Canada): Good morning, Mr. Prime Minister, Ministers, Premiers, Territorial government leaders.

Firstly, I want to say, Mr. Prime Minister, on behalf of the people who I represent, we welcome your statement about wanting to resolve this issue today, and also that whatever we would resolve would only strengthen the equality provisions that are already there.

I would like to reiterate the need that we feel for having greater clarification or greater certainty. I think, as has already been expressed, there are some opinions that what exists now in both Part 1 and Part 2 is adequate. However, our members are concerned that there is a reference made to other rights and freedoms of Aboriginal Peoples in Section 25, and these other rights and freedoms are not necessarily protected by other provisions of the Charter, nor are they necessarily relevant in any discussions in Part 2.

We, of course, recognize that the Section 35(4) that exists now provides for the equality of existing Aboriginal and Treaty rights, but we are concerned about any reference to other rights and freedoms.

Now, I want to make it very clear that what we are proposing is not to be construed as our having decided to disbelieve that any discussion of Aboriginal rights should take place in Part 2. However, we are not interested in discussing

an amendment to Section 35(4), which could possibly weaken what is already there. This has been expressed by the Assembly of First Nations, for example, in the past, and it is shared by other organizations. Our strong belief is that if there is even one representative of Aboriginal People that is not comfortable with the provision that may suggest a weakness, then we do not support that either.

Having said that, I would also like to make reference to the letter dated April 1, as already mentioned by Chief Ahenakew. In there, we say that while we have not taken the position that no other amendment on sexual equality would be acceptable, we are prepared to discuss further a proposal put forth by the Assembly of First Nations. It is a proposed amendment to Section 25. We have numbered it Section 25(2). As has already been said, the other national Aboriginal organizations seated here have agreed that this is acceptable. As you can see in the letter, I and the President of the National Inuit Women's Association have endorsed that.

This decision, I must emphasize, was made after a lot of serious discussion amongst ourselves and with a lot of thought being given to how it is going to affect not only future discussions, but future happenings that affect our people.

The proposed amendment is:

"Notwithstanding anything in this Charter, all rights and all freedoms of the aboriginal peoples of Canada are guaranteed equally to male and female aboriginal persons."

Now, we believe that if that is there, it provides, at least in

black and white, for purposes of greater certainty, for purposes of interpretation by the courts, if that should ever be necessary, that the other rights and freedoms of Aboriginal Peoples are also to be guaranteed equally to male and female persons.

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Miss Kane. Mr. Aylward, would you like to go ahead, please?

HON. ROBERT AYLWARD (Minister of Rural, Agriculture and Northern Development, Newfoundland): Thank you very much, Mr. Prime Minister.

On the issue of equal rights, I would like to state our province's position. The province has taken the position that the present provisions in the Constitution already prohibit sexual discrimination. We feel that no revision is necessary.

In the face of any consensus that may develop for entrenchment, the province would not oppose any Constitutional amendment if the Aboriginal groups and other governments wish to pursue this matter.

THE CHAIRMAN: Thank you, Mr. Minister.

Monsieur le ministre.

M. ELIE FALLU: Monsieur le Premier ministre, vous comprendrez facilement que le Québec ne saurait d'aucune façon s'opposer à ce que les femmes amérindiennes et inuits soient mieux protégées par toutes les façons dont elles voudront bien l'être.

On sait comment le Québec a déjà, par ses lois, tenté d'arriver à cet idéal. Si nos femmes amérindiennes et inuits veulent voir dans la Constitution canadienne des amendements, nous ne nous objecterons d'aucune façon à ce que de tels amendements faisant consensus à cette table soient inscrits dans la Constitution et, pour mieux affirmer encore cette volonté, je céderai, si vous me le permettez, la parole à madame Viviane Courtois qui est présidente de l'Association des femmes autochtones du Québec.

LE PRESIDENT: Oui, madame est bienvenue.

Mme VIVIANE COURTOIS (Présidente de l'Association des femmes autochtones du Québec): Bonjour, mesdames, bonjour, messieurs.

Nous nous présentons à la table de négociations en tant que représentantes du peuple autochtone pour vous exhorter à définir les assises constitutionnelles d'une nouvelle ère dans les relations entre les peuples autochtones et non-autochtones, entre les gouvernements autochtones et non-autochtones.

Nous sommes présentes afin d'appuyer la lutte pour la reconnaissance du droit à l'autonomie politique pour



toute personne qui a droit d'y participer en tant qu'autochtone.

Il y a déjà trop longtemps que la question de l'égalité des sexes est artificiellement isolée à la fois sur les ordres du jour et dans l'esprit des gens. L'égalité sexuelle n'est pas un droit distinct. Elle est à la base de l'exercice ou de l'application de tous les autres.

La première recommandation du Comité spécial sur l'autonomie politique des Indiens, dans son rapport rendu public à l'automne 1983, est à l'effet que le gouvernement fédéral établisse une nouvelle relation avec les premières nations et qu'un élément essentiel de cette relation soit la reconnaissance de l'autonomie politique des Indiens.

Cet appel à l'établissement d'une nouvelle relation est repris tout au long du rapport. Le Comité a compris que la nouvelle relation doit reposer sur une base juste et équitable et que, pour y arriver, la participation de toutes les personnes concernées est requise.

C'est ainsi que la neuvième recommandation du Comité énonce ce qui suit:

«Le Comité a avancé le principe selon lequel il revient de droit à chaque première nation indienne de déterminer qui seront ses membres en fonction des critères qu'elle aura établis. Le Comité recommande que chaque première nation indienne adopte comme point de départ nécessaire à la création d'un gouvernement une procédure prévoyant la participation de toutes les

personnes appartenant à cette première nation au processus de création du gouvernement, quelles que soient les restrictions de la Loi sur les Indiens.»

Pour nous, cela représente une reconnaissance du droit pour les membres du peuple indien de reprendre leur statut et d'être réinscrits dans les différentes nations indiennes et, pour le peuple indien, de participer au processus de formation d'un gouvernement.

Le Comité suggère qu'un nouveau régime de traités, l'intervention législative et, bien sûr, l'amendement constitutionnel sont toutes des avenues qui pourraient déboucher sur cette nouvelle relation.

Nous sommes présentes à cette Conférence afin de discuter d'amendements constitutionnels. Nous soumettons qu'au cours des discussions constitutionnelles portant sur les deux questions les plus importantes à l'ordre du jour, l'égalité des sexes et l'autonomie politique, devrait être envisagé un nouveau régime de traités où trouveraient place à la fois le droit à l'égalité des sexes et le droit à l'autonomie politique.

Comme mesure absolument minimale, nous exhortons les participants à cette Conférence à se mettre d'accord sur des amendements précis portant sur les questions suivantes.

La Charte doit être amendée afin d'éviter qu'elle ne sanctionne par inadvertance la discrimination fondée sur le sexe. Le droit à l'autonomie politique en tant que droit ancestral ou issu de traités doit être explicitement reconnu et un nouveau régime de traités doit être enchâssé dans la Constitution.

Trois types distincts de droits doivent être protégés par les dispositions générales traitant de l'égalité sexuelle chez les peuples autochtones: les droits faisant partie de la Partie II, les droits existants, ancestraux ou issus de traités dont il est question à l'article 35, les droits protégés par la Charte, les droits mentionnés spécifiquement dans la Charte des droits et libertés ainsi que tous les autres droits.

A la lumière des propositions sur la table concernant l'autonomie politique, c'est-à-dire d'inclure le droit à l'autonomie politique dans un nouvel article à la Partie II plutôt que dans l'article 35, il devient encore plus important de s'assurer que la garantie d'égalité s'applique à tous les droits des peuples autochtones du Canada, c'est-à-dire les droits ancestraux, issus de traités et les autres droits et libertés.

Les droits de la Partie II sont maintenant protégés par une disposition sur l'égalité depuis l'adjonction de l'alinéa 35(4).

En ce qui a trait aux droits protégés par la Charte et aux autres droits, l'article 15, une fois en vigueur, fournira une garantie suffisante d'égalité devant la loi.

L'article 28 prévoit que tous les droits et libertés mentionnés dans la Charte sont garantis également aux personnes des deux sexes.

Le problème qui subsiste est l'interprétation possible de l'article 25 en particulier, à savoir, si les

droits et libertés ancestraux, issus de traités ou autres des peuples autochtones du Canada mentionnés à l'article 25 sont exclus de la garantie d'égalité.

La proposition mise de l'avant par l'Assemblée des premières nations dans une lettre adressée au Premier ministre Mulroney en date du 11 janvier 1985 semble tenir compte de cette préoccupation. L'Assemblée des premières nations suggère l'addition d'un alinéa 25(2) à l'article 25 de la Loi constitutionnelle de 1982 qui se lirait comme suit:

«Indépendamment des autres dispositions de la présente Loi, tous les droits et toutes les libertés des peuples autochtones du Canada sont garantis également aux personnes autochtones des deux sexes.»

Une autre solution que nous jugerions acceptable serait une version à peine modifiée d'un texte proposé pour l'alinéa 25(2) par le gouvernement fédéral lors de la Conférence de 1984. Cet alinéa pourrait se lire ainsi:

«Rien dans cet article ne devra être interprété de façon à abroger la garantie d'égalité accordée aux personnes des deux sexes par l'article 28 de cette Charte ou à déroger à cette garantie.»

Premièrement, nous proposons, en ce qui concerne l'autonomie politique, un ajout à l'article 35 de la Loi qui permettrait la reconnaissance explicite du droit à l'autonomie politique des peuples autochtones du Canada.



Deuxièmement, nous considérons qu'il est très important que les participants à cette Conférence se mettent d'accord sur un amendement traitant de la mise en oeuvre des droits des peuples autochtones.

Les deux années dont nous disposons avant la tenue de la prochaine conférence des Premiers ministres doivent être mises à profit. Plusieurs nations autochtones désireront peut-être entamer dès maintenant la discussion sur la mise en oeuvre de leurs droits ancestraux ou issus de traités.

Vers la fin de la Conférence des Premiers ministres de 1984, une proposition conjointe fut déposée par l'Assemblée des premières nations, le Comité inuit sur les questions nationales et le Native Council of Canada sous forme d'un accord constitutionnel portant sur les droits des peuples autochtones du Canada lequel incluait en annexe le texte d'un nouvel alinéa 35.2.

Parallèlement à la reconnaissance explicite du droit à l'autonomie politique, nous proposons une version légèrement modifiée du document. La clause de mise en oeuvre que nous proposons pourrait se lire comme suit, dans 35.2.

partie I:

«Le gouvernement du Canada et les gouvernements provinciaux à l'intérieur de leurs juridictions respectives prennent l'engagement de négocier, de conclure et de mettre en oeuvre des traités avec les peuples autochtones pour la mise en oeuvre spécifique dans les diverses régions du

Canada des droits des autochtones.

Ces traités seront des traités au sens de l'article 35(1).

Les alinéas (1) et (2) s'appliqueront aux Premières Nations avec traités dans la mesure où celles-ci le choisiront.»

Ce texte ou un autre semblable pour l'essentiel enchâsserait le nouveau régime de traités préconisé par le Comité spécial sur l'autonomie des Indiens.

A titre de conclusion, avec l'avènement d'une garantie non équivoque du droit à l'égalité sexuelle et la reconnaissance explicite de l'autonomie politique, les gouvernements autochtones et non-autochtones de ce pays pourront commencer à bâtir une nouvelle relation fondée sur la confiance réciproque, l'égalité des sexes et les droits collectifs.

L'article 52 de la Loi constitutionnelle de 1982 confirme la primauté de la Constitution du Canada, que cette primauté contribue à assurer la justice et l'égalité au Canada.

Merci.

LE PRESIDENT: Merci, madame.

Je pense que le prochain intervenant est monsieur Daniels.

MR. HARRY DANIELS (Native Council of Canada):

I will ask Doris Ronnenberg to speak for us, and then I will follow.

THE CHAIRMAN: Please go ahead.

MS. DORIS RONNENBERG (President, Native Council of Canada): Mr. Prime Minister, Premiers and fellow Aboriginal Peoples, I would like to go back to what constitutes agreements. To me, I have always felt that principles are the basis of agreements, whether the agreements be Treaties, Constitutional amendments, but at the very basis has to be principle.

I feel very strongly, like my fellow Aboriginal women, that there should not be any equality in Canada or part of Canada, but I must also keep on going: I do not think there should be any equality in any other form of government in Canada.

My great-grandfather signed the B.C. part of Treaty 8, and he was signing for the generations yet unborn, of which my mother was one, my late mother, myself and my children. We are now here, the generations yet unborn.

So, I think equality of Aboriginal Peoples has to be addressed, but it has to be addressed in all forms of government, not only in white government. As I said, the underlying agreement, underlying any agreement is principle. To me, equality is a very big principle.

I have only one voice as a PTO President with the Native Council of Canada. I am one of two Indian women who are PTO Presidents for our organizations and I have only one voice, and collectively the board has made the decision that they would go with what is on the table with the other Aboriginal organizations. I agree with that except I must voice my own personal opinion here. I do have some reservations in where this is being placed because Section 25 is our shield against mainstream societies should they find fault with the direction that we are going as Aboriginal Peoples. Therefore, I would not want to, in any way, dilute the shield that is our protection. So I do have a bit of concern as to where this is being placed. But I agree with the federal government that the issue of equality between men and women and in particular Aboriginal men and women which is what we are addressing right now has to be addressed and it must be addressed once and for all, but personally, I do have a concern as to where it is being placed. I will turn the chair, the table, whatever, over to my colleague.

MR. HARRY DANIELS (Vice-President, Native Council of Canada): Well, dealing with the whatever, Mr. Prime Minister, we, along with other organizations, have given our covenant here and in a letter to you have stated that we will go with the proposed change in Section 25 (2). We just want to draw to your attention that last year we got submarined on this one when



it was in 35. We have given our covenant this year and I see, without usurping your authority here as Chairman, I see that there is a great deal of unanimity around this table supporting this amendment. I would suggest now, Mr. Chairman, that we support this amendment now and get back to talking about self-government, because we, the Aboriginal Peoples, support it. I sense a great deal of unanimity and I would like to get back to talking about self-government.

THE CHAIRMAN: Thank you, Harry. Premier Miller has been very strong in his support of equality for women and brings a special dimension to it. I would like to hear from him and have John Crosbie do a brief wrap-up and if it is agreeable to everyone here, unless someone else would like to be heard--we will hear everyone, obviously, but if it is agreeable to everyone we will look to a situation where after Mr. Crosbie's wind-up, that we will strike a select committee of your officials and ours to see if they cannot harmonize the various thoughts and pieces of paper that have been floating around on the fundamental principle.

I would like to go to Premier Miller and would you indicate now, please, if anyone else would like to be heard on this. Premier Miller.

THE HONOURABLE FRANK S. MILLER (Premier and Minister of Intergovernmental Affairs, Ontario):

Thank you, Prime Minister. I have beside me Donna Phillips who is the President of the Ontario Native Women's Association and with whom I have had a discussion

on this topic within the last 48 hours. It was my first discussion with her but there have been numerous discussions with our government.

I would like to reinforce the comments just made by the Native Council of Canada, that is, as a non-lawyer I can only reaffirm what I said yesterday, that Ontario is flexible on the way we achieve sexual equality, not flexible on the principle of sexual equality. Therefore, we can have discussions, if necessary, following this meeting to determine what is the best way and the best wording but surely, we should go out of here agreed upon the principle of sexual equality. We will continue as we have been doing to listen to the Ontario Native Women's Association and to legal advice to determine what is best. It is a complex amendment. We must make sure that we are reinforcing rights not taking away from rights, and also we must be very careful that we do not tamper with other rights that may already exist within the various acts. That is Ontario's position.

MS. DONNA PHILLIPS (President, Ontario Native Women's Association): I just wanted to reaffirm our position with Ontario and with our own people and I think the Premiers who are sitting around the table have to realize that we are Aboriginal women as well as we are not just women and we have to protect our nation. And I think that what the Prime Minister said yesterday, I come from the nation that he talked about at the end of his presentation yesterday. I am an Oneida woman who

belongs to the Iroquois confederacy and our responsibility is to seven generations. I think the Premiers have to realize that we are not just here protecting ourselves, that we are here protecting our nation.

THE CHAIRMAN: Thank you, Donna. Would you care to proceed.

MS. JOANNE DANIELS (Metis National Council):

The Metis National Council's position on sexual equality is to agree with other Aboriginal groups and that we would like to see the sexual equality issue dealt with but we would like to see the sexual equality issue in Section 25.

THE CHAIRMAN: Thank you, Miss Daniels. Premier Devine.

THE HONOURABLE GRANT DEVINE (Premier of Saskatchewan):

Mr. Prime Minister, I just wanted to register our support for equality and if there is a consensus in this room with respect to an amendment we would be glad to look at it.

THE CHAIRMAN: Thank you, Mr. Premier. Premier Buchanan.

THE HONOURABLE JOHN M. BUCHANAN (Premier of Nova Scotia):

Thank you, Prime Minister. I just want to mention that Nova Scotia has consistently supported an amendment to clear up the apparent problems that exist and if there is a doubt that the present Charter section does not adequately cover equality rights, then we

have consistently said that there would be a further amendment and there does appear to be unanimity around this room and this is the best time to resolve it and clear it up once and for all. So I just want to reiterate again that we strongly support the proposition that you have outlined and we concur in an amendment to the present Charter to clear up the equality rights problem once and for all.

MS. SANDRA LOVELACE (New Brunswick): Thank you very much. I do not think I would like to bog down the conference either but we feel that equality is very important with Indian self-government. Indian self-government cannot happen without full participation of its Aboriginal Peoples without full and active participation of both Aboriginal female and male persons. We all need to be involved in policy making from the community on up to the Government of Canada.

We commend the Progressive Conservative Government in attempting to go further than the past government on both the immediate reinstatement of women and their children back to their rightful status and for trying to find a comfortable working relationship in regard to Indian self-government. This government knows well that the mistrust we feel is based on the fact that we have a long history of being a survival nation by force of law, a law that we did not write or were consultant to. Servant and master relationships should not exist in 1985. We are sure that many people here today and those



who are viewing these proceedings with great interest know that even this attitude has not been eliminated from our planet. There are many instances that master/servant government still exist, a recent most publicized example is South Africa. This does not have to happen in Canada nor from the Canadian Government and the Aboriginal Peoples and certainly not from the Aboriginal men and Aboriginal women.

We have come here today to address sexual equality. We have listened those past three years on arguments from the National Indian organization on this matter and feel very strongly that if we are not guaranteed sexual equality within the Constitution, the traditional and cultural right to discriminate will prevent any chance of balance to Indian self-government. If sexual equality is not clearly defined within the Constitution, we feel that inequality will continue when Indian self-government is in effect. All we are seeking for is equal access to all that is guaranteed to Aboriginal Peoples.

Finally, we are Aboriginal women. We have experienced the devastating effects of a denial of our basic human rights and from this experience we feel very strongly that we should be involved in the forming of Indian self-government. We need to have full participation of all Aboriginal peoples.

We thank the conference for hearing us and we convey a special gratitude to the Honourable Richard Hatfield who provided the opportunity for us to be present today. World society would be a greatly improved one if

if more of its leaders possessed his sensitivity and respect for human kind, and like him, bravely chose to speak out publicly in support of the rights of all persons. Thank you very much.

MS. ALMA BROOKS (New Brunswick): Premier Hatfield has fought long and hard for sexual equality for all women and I commend him for being the kind of a man who is not afraid to take a couple of steps ahead of his colleagues. Native women in New Brunswick want to see sexual equality entrenched in the Constitution, however, we are not just women. We are also Aboriginal women who have Aboriginal rights.

We would not want anyone to abrogate, derogate or water down in any way those rights in the name of sexual equality. At the first First Ministers' Conference everyone had agreed on an equality clause under 35 but somehow the original wording got changed from the time it came from upstairs to this table. We feel, however, that the present 35.04 adequately covers us for equality on Aboriginal treaty rights. So the question is not under 35, the question is on other rights which is mentioned in 25. If wording was added to 25.02 or even 28, that a guarantee of equality between Aboriginal men and Aboriginal women, we feel that the Aboriginal women would be adequately covered in the Constitution. Thank you.

MS. JEELAH DAVIS (Inuit Women's Association):

We feel that ideally the sexual equality

clause between Aboriginal Peoples should be in 35.04 but we do not accept the federal proposal on 35.04 because I think Marlyn Kane also recognizes that it touches on other Aboriginal Peoples and I think we wrote a letter to the Prime Minister and we got support from other women's groups that this sexual equality clause, that we would like to see is on 25 (2).

Thank you.

THE HONOURABLE WILLARD PHELPS (Government Leader, Yukon): Prime Minister, we would just like to go on record that Yukon does support your proposal.

THE CHAIRMAN: I think that concludes, if not exhausts discussion on this very important topic. I would hope you would agree that in regard to such an important item as sexual equality rights it is not inappropriate that I be seated next to Flora MacDonald who for two decades has led the fight in Canada on behalf of women and this in many ways is a testament to her tremendous efforts on behalf of seeking equality for everyone but in particular, for women across the country, and I am honoured to have Flora with me today at this time at a very historic moment.

I think we are on the verge of a consensus, not unanimity, there never is unanimity but there is a great deal of willingness, it seems to me, to move on with the federal proposal or something closely resembling it and I would ask John Crosbie, whose skills of synthesis are second to none, to speak for

a few moments and I think he will suggest that interested parties get together under his guidance at the lunch hour to come back with a document that, hopefully, will reflect the needs and the concerns of all, as best any document can. Mr. Crosbie.

THE HONOURABLE JOHN C. CROSBIE (Minister of Justice and Attorney-General of Canada): Prime Minister, certainly the Government of Canada is prepared to agree to an amendment that would clarify the Constitution Act, 1982, to reinforce the guarantee of equality between Aboriginal men and women with respect to all the rights which they enjoy, but we and other governments have not been prepared to agree to an amendment which would start to expand the scope of those rights.

Our legal advice, and I think it is true of others, is that the existing provisions of the Constitution Act do guarantee equality between Aboriginal men and women with respect to all the rights that they enjoy, but nevertheless since there seems to be a perception that this is not the case, we are quite agreeable to an amendment if we can get everyone to agree on the amendment. Everybody does agree that we want to ensure equality between Aboriginal men and women with respect to their rights which they enjoy. The trouble has been the legal technicalities of drafting what is acceptable to them all. There was in the 1984 Constitutional Conference an amendment suggested, a best-effort amendment that was agreed to by everyone with one exception, so that it did not go forward, and we have got five or six choices



to look at now, several of which may be objectionable on some other technical ground. So we cannot be assured that we are going to have agreement on the legal technicalities today either but with your direction, I would chair a committee at lunch time at which we would like to have everybody appoint a representative and see if we can come up with an agreed amendment to one of the sections. We have five or six to look at here and it should not take too long to see whether there is agreement or not.

THE CHAIRMAN: I know that on something this important no one would want to jettison what has been accomplished for want of an adjective or for lack of a comma. We are talking about an important matter here and I think that we can resolve it in fairness and it must be resolved. There is no pride of authorship here. It is a question of doing the right thing. It is just that simple, straightforward and if our language can be improved upon, fine. If you think that it is adequate while not perfect, I hope you will say, fine, as well. We must move on in this vital area and I hope you will find that the document that Mr. Crosbie will set forward, the one that you are familiar with, will be find favour and we will be able to proceed expeditiously to resolve an historic wrong that must be dealt by this conference. We just cannot go on in saying, you cannot walk out of here and say the conference was great but I did not get my way on everything, therefore I shut it down, no, no, that is not good enough for any

of us. This is the time we put water in our wine. If we believe in genuine progress and respect for other people's opinions, that is what we are going to try to do. We know what the principles are, we are going to respect those principles and try and make sure they are enshrined but I think we have to keep an open mind and a sense of fairness about us and a sense of economy about our language and our attitudes.

So thank you very much. Mr. Crosbie will pay for the sandwiches and coffee, that is all it is. We are running a frugal campaign. Do not choke on that one, Harry. It will be coffee and sandwiches.

MR. HARRY DANIELS (Native Council of Canada):

I just wanted to apprise this assembly of one item or one thing. If indeed we feel that this is going to straighten out the sexual equality items on the agenda or in the Constitution, I want to serve notice that the NCC and its constituents are not abandoning our quest for equality between all Aboriginal Peoples, and all other items in the Constitution.

We will go with the amendment but in other forums and in this one we will be searching for an intended notion of equality amongst all Aboriginal Peoples.

THE CHAIRMAN: I understand, Harry, and thank you. John suggests that with regard to the luncheon meeting his generosity will be extended. He will include a Minister and an official and the sandwiches. So take him up on it quickly.

HON. JOHN CROSBIE (Canada): Or two Aboriginal People.

THE CHAIRMAN: Or two Aboriginal leaders per group. I leave that with you. There will be an announcement within half an hour as to where this luncheon meeting will take place.

May we move to agenda item 3, which is relatively non-controversial, but important. This is the mandate for continuing and on-going discussions.

Sur la question numéro 3 de l'agenda, il reste beaucoup à faire d'ici la prochaine conférence des Premiers ministres en 1987. Un certain nombre des points inscrits à l'ordre du jour de 1983 demeurent en suspens, et il faudrait aussi examiner les diverses propositions émanant des associations autochtones.

Ce troisième point de notre ordre du jour ne devrait toutefois pas poser trop de problèmes pourvu qu'on s'entende généralement dans l'accord sur la nécessité de régler les questions encore en suspens, en invitant nos ministres à s'atteler résolument à cette tâche.

Je propose que nous déterminions si les éléments de la partie II du projet d'accord confèrent un mandat suffisant aux ministres. Cette partie se résume essentiellement à ce qui suit:

«D'abord, les gouvernements devront discuter avec les représentants autochtones des points figurant dans l'Accord constitutionnel de 1983, et les propositions présentées par les associations autochtones.

Et, en deuxième lieu, les ministres devront se réunir au moins deux fois par année.»



In my view, colleagues, what is required beyond these commitments is a continuation of the spirit of flexibility and co-operation which has characterized the work of Ministers since last autumn. I wish also to assure Aboriginal representatives that the federal government will continue to bring a strong political focus to all aspects of its participation in the discussions leading to 1987.

I am prepared, if you agree, to ask Mr. Crosbie to call a Ministers' Meeting in May or June to consider the work leading to 1987 based on the results of this Conference. It is not too soon to contemplate a work program -- not by a long shot. I think the extent by which we have made progress, or hopefully shall, speaks to the homework that we have done, has been done by you, in private meetings, that have not attracted much attention but have cleared away a lot of the difficulties that in previous years might have found their way to the Conference table, so Ministers could allocate agenda items by Aboriginal Peoples or Associations in order to ensure that the specific concerns of Aboriginal Peoples will indeed be fully addressed at the on-going meetings. The essential feature of the mandate that we would give to the Ministers is to ensure that all outstanding items from the 1983 Constitutional Accord and the proposals of the Aboriginal Associations are thoroughly examined for our consideration in 1987.

I am prepared as well to entertain recommendations from Ministers or colleagues regarding a possible First Ministers' Conference in 1986 if they consider that it would be warranted by progress in discussions but I suppose that is a determination that could be made at a later date.

May I hear from you in regard to the process?

MR. DAVID AHENAKEW (Assembly of First Nations):

Mr. Prime Minister, I think that most of the Aboriginal Organizations, if not all of them, including the Territories, are very anxious to get back to the topic of Aboriginal self-government.

I would like to make a suggestion, with your indulgence, and that is I am not degrading the on-going process by any means but because self-government is so vital to us we would like to get that item back on the agenda as quickly as possible. Therefore I recommend we break for lunch. By that time Mr. Crombie should be back with whatever it is they are working with at the moment, and get that back on track.

THE CHAIRMAN: Respectfully, Chief, we ain't going anywhere, not for lunch or anything, until they come back with a proposal that I am going to put on the table with regard to self-government. We are staying here, and I hope you would agree that we should continue. They are working in the room here and hopefully they will come in with a document with which we can be properly seized and take a look at it. With your permission I think we should keep going. In this town, you never know where people are going to wind up for lunch!

Those are my concerns, and I share them. It is only noon - 10 o'clock in Edmonton. Nobody from western Canada could be hungry yet. Premier Lougheed.

HON. PETER LOUGHEED (Alberta): That does not necessarily follow, Prime Minister. We also got up at four in the morning.

Just two or three points on this situation. First of all, on your last observation, if we are waiting to get

a document I do believe that it is only reasonable that those of us who are receiving a document placed in front of us from the federal government have an opportunity to caucus with our delegation and take a look at it. I presume what you meant is that we stay here until we get the document.

Secondly, with regard to the question of continuing discussions, I would like to state the view - we have differences, it is natural, with the Prairie Treaty Nations Alliance, but just as the Metis National Council were invited to the 1983 Conference and thereafter, in addition to the National Council of Canada, I would like you to reconsider, Prime Minister, that we also have that point of view in terms of the Treaty Indians of the west that they are represented in that region of western Canada at the table in any future Conferences.

Thirdly, I would be of the view that we should assess, as you just mentioned, the question of any additional First Ministers' Meetings other than the obligatory one in 1987 at a later date when we have had a chance to consider the Conference in total.

MR. FRED HOUSE (President, Louis Riel Metis Association, British Columbia): Yes, Mr. Prime Minister, the Metis National Council would like to again go on record that we had mentioned previously that the Metis National Council had to go to court to get these two seats. I guess you could say that it was an out-of-court settlement by the Prime Minister of the day to offer us a seat at the table which then led to the two seats that we do have. But the Metis got their seats through court.

MR. PETER LOUGHEED (Alberta): Prime Minister,



I would like the record to be checked as to whether that is accurate or not and get a note from Mr. House.

MR. FRED HOUSE (British Columbia): Very fine.

MR. HOWARD PAWLEY (Manitoba): Manitoba would also indicate that we would have no objection to the Prairie Treaty Indian Association being represented at the next Conference, otherwise to consider the process as intended.

MR. DENNIS PATTERSON (Northwest Territories): Thank you, Mr. Chairman. The Northwest Territories has been privileged to be involved in these discussions for the past three years. We want to say that we are very pleased that we are looking at a work plan towards 1987 and particularly pleased that it could even lead to the possibility of another First Ministers' Meeting in 1986.

I think the quality of the work that we do at these forums is related to the work we do in the preparatory meetings and I think we have been privileged to be involved and very pleased to see how gaps of understanding have been closed through this kind of hard work.

In addition to the very important item of self-government, we are very concerned to address the issue of repealing Section 42.1(e) and (f) which poses a real barrier to our taking our rightful place in Confederation.

There are other items as well that must be addressed, language and culture, which are very important to our constituents.

So we would welcome early meetings and the setting up of a work plan and timetable. I would like to also mention that if self-government can lead to negotiations at



the regional and community level, we must not let that process distract us from the larger tasks as well of defining other Aboriginal rights at this level. So we would welcome the opportunity to continue to participate actively. Thank you.

MR. ZEBEEDDEE NUNGAK (Inuit Committee on National Issues): Mr. Prime Minister, I would just like to make a brief point on the matter of on-going process.

During the preparatory meetings I think we all realized that the matter of on-going process or continuing discussions is going to depend on whether we reach agreement here or not on the issue of self-government. Whether we do reach an agreement or not on self-government is going to determine whether there is going to be an on-going process after or whether there is anything worth on-going for.

Assuming that we do reach agreement and there is something worth having more meetings about, we had made it clear to the Chairman, the Honourable Minister of Justice, that we thought that 1986 should be utilized in further meetings, if not another FMC, so that we are not in a situation of all having to do a mad scramble in 1987, which was the last duly mandated FMC on Aboriginal issues.

So, we are of the position that it is worthy to agree to meet again in 1986, but how or at what level we are going to do that is going to depend on the work that is going on right now in the back rooms. Thank you.

THE CHAIRMAN: Mr. Bruyere.

MR. LOUIS (SMOKEY) BRUYERE (President, Native Council of Canada): Yes, Mr. Prime Minister. I would just like to state that we put forward the suggestion in our statement yesterday morning that we have a First Ministers' Conference in 1986, and along with that, in terms of making sure that we get a work plan, if that is what we are going to be discussing here, we have to ensure that it is the political representatives of the existing Aboriginal organizations in the regions and community levels and the provincial levels that are going to be doing the dealing and not just, as Mr. Devine said yesterday, 46 organizations within one city. It has to be realized around the table that it has to be tied back to the political organizations that are sitting around this table right now.

THE CHAIRMAN: Premier Hatfield.

HON. RICHARD HATFIELD (New Brunswick):

Mr. Prime Minister, as Minister as well as First Minister, I would be quite open to having a ministerial meeting and a First Ministers' Conference in 1986.

THE CHAIRMAN: On the process, because we cannot go to agenda Item No. 4 until we have attempted to seek some resolution of No. 1 which is presently on another track -- I hope a good one -- as a result of which, David Ahenakew, I will subscribe to your wish in part. We

will now adjourn, not for a meal but for a cup of coffee.

--- Short Recess

--- Upon resuming

THE CHAIRMAN: May we begin, please.

Collègues, nous allons reprendre les discussions.

La députation québécoise est toujours à l'heure, présente!

Please be seated, and we will begin.

Nous aurons dans quelques instants un document à vous remettre, que je vais vous demander, les Premiers ministres et les délégués, de bien vouloir considérer au cours du déjeuner.

We will be momentarily distributing a document to you. This document, Colleagues, finds its genesis and inspiration in the federal position as developed through months of very extensive consultation by John Crosbie and David Crombie across this nation. The document has been carefully analyzed by leading participants here throughout yesterday, late last night, early this morning and ongoing. All participants have had a very close, critical and helpful look at it. The Government of Saskatchewan, for example, has played a major role in the evolution of this present document, for which I thank them.

The document is not perfect, but it represents a major advance on the road to justice for Canada's Aboriginal Peoples, to whom we owe so much. I ask you all to examine this document with generosity in the spirit of what Canada is and what Canada can become. More than commas and paragraphs and notwithstanding, this document is about fairness for our Aboriginal Peoples and for the kind of country that we can build.

After you receive the document, we are going to adjourn for 45 minutes. I have arranged for food to be delivered to your meeting rooms here so that nobody leaves the premises.

We will adjourn for about 45 minutes, and when we return I would ask for your support of what we seek to accomplish. In that discussion, beginning in 45 minutes, I hope we can remain on the open plain of noble principle and avoid issues that are not central to this item. There are issues that are central and they ought to be discussed, but there are many that, while important, are essentially peripheral or extraneous to this major question and they can be dealt with, as we agreed upon this morning, in the ongoing process to which reference was made and for which an accommodation, I believe, was reached. This is how we will examine the document, and I hope you will all do likewise.

C'est effectivement le document que je pense nous venons de déposer. La disposition particulière et pertinente ayant trait au sujet principal de discussion s'y trouve, ainsi que d'autres questions. Je vous demande de le regarder avec attention, avec beaucoup de soin et avec un esprit ouvert et



généreux. Je pense que, ce faisant, nous serons en mesure, comme Canadiens qui devons tant à nos peuples autochtones, de trouver une formule hautement équitable.

The agreed upon meeting that Mr. Crosbie was to chair has been rolled over until after we deal with the principle item on the agenda. I hope you will agree with that procedure. Bon appétit. David Ahenakew, I will be looking for you in 45 minutes, sandwiches or not. Thank you.

--- Luncheon Adjournment



FIRST MINISTERS' CONFERENCE  
ON  
ABORIGINAL CONSTITUTIONAL MATTERS

---

CONFERENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS CONSTITUTIONNELLES  
INTERESSANT LES AUTOCHTONES

VERBATIM TRANSCRIPT

---

(unrevised and unofficial)

Afternoon Session of  
April 3, 1985

COMPTE RENDU TEXTUEL

---

(non révisé et non officiel)

Séance de l'après-midi  
du 3 avril 1985





--- Upon resuming

THE CHAIRMAN: If there is one thing I cannot stand, it is people who show up late for meetings. I apologize. We have been having some meetings.

I went through the draft resolution with its amendments very carefully. I am a fairly practical sort; I try and put things objectively. When I analyzed the document and the opinions in writing of various people and I looked at the final product, I tried to figure out where I am today as opposed to yesterday. Assuming this were acceptable, how much progress would we have made, if any, on behalf of the Aboriginal Peoples?

Here it is as I understand it, and I urge you to correct me if you think I have misunderstood something.

What we have today that we did not have in the past are four items:

First, the right to self-government for Aboriginal Peoples recognized in the Constitution. That never happened before.

Second, an agreement, assuming the appropriate number of provinces accept, of the required number of provinces to proceed with the Constitutional amendment to breathe life into the first proposition. We never had that before. Harry Daniels was remarking yesterday that he started off with one a year ago. If this is right, we have hopefully seven.

Three, a solemn agreement for specific negotiations regarding these rights and a work plan that the Prime Minister of Canada is committed to have enforced

and honoured. We never had that before.

Fourth -- and there are others, but I stick to the main points. When the process is completed and the parties agree, these further arrangements are constitutionalized.

That, in my judgment, where I come from makes an impressive handsome package of accomplishment when you consider where we were and where we are trying to go. That is solid, substantial progress. I think with the imperfections yesterday -- I referred to the Iroquois view and the obligations of the seventh generation to do things with the seventh generation in mind. I think, if we are successful, the seventh generation will be proud of us.

May I hear from Premier Devine. We have agreed that Premier Devine will lead. He was our host for the First Ministers in Regina and provided a great deal of leadership to this conference. I welcome his intervention.

HON. GRANT DEVINE (Saskatchewan): Thank you, Mr. Prime Minister.

I will just take a few moments to outline why I believe we have made some progress in the last 24 hours as a result of the accord that you have tabled.

Yesterday, I indicated that Saskatchewan had some sincere concerns about the initial federal proposal. As I pointed out, our key problem was with the very broad commitment that the initial federal proposal contained for all Aboriginal People, even though their circumstances are very different. In my view, the Constitution must respect and treat fairly all forms of government: town councils, city councils, rural and urban municipal governments, other elected boards and

agencies like school boards, as well as Aboriginal Peoples.

At the same time, it is important to the Aboriginal Peoples to have constitutional recognition of their rights. What I want to accommodate is that desire to have constitutionally recognized rights without confining any Canadian to what would be an extremely difficult and perhaps unworkable process.

Mr. Prime Minister, we introduced a draft constitutional amendment on aboriginal self-government last night. From what I can see, it has been largely incorporated into the new accord that is before us.

To me, the new accord says the following:

Where agreements between the Aboriginal Peoples and the federal and provincial governments are included and ratified by the legislatures, the right to self-government of Aboriginal Peoples is recognized and affirmed. In my province, Mr. Prime Minister, people see as critical the requirement that any agreement arrived at, must be approved by an Act of the provincial legislature as well as Parliament.

The change we recommended to the federal proposal was to move the commitment to participate in negotiations out of the constitutional amendment and place it into the attached political accord. Governments will participate in negotiations directed towards concluding agreements that could result in the constitutional protection for the agreed upon rights.

Mr. Prime Minister, we see a number of positive advantages to this accord.

One, it removes the possibility of Court



challenges on the way we negotiate with various aboriginal and non-aboriginal groups in our communities. As I indicated yesterday, if communities, municipal governments or provinces were forced to sit down and negotiate by Court order with an infinite number of groups, there would be few practical possibilities of progress to the detriment of the Aboriginal Peoples. If governments are going to be forced by Court order to sit down and talk about law-making self-government in situations where law-making self-government is clearly not appropriate, such as in the middle of one of our major cities, then only bitterness and frustration can result.

We also think that the new proposal would give us the flexibility to take into account the interests of all citizens of Saskatchewan, aboriginal or non-aboriginal alike, including local government, community groups and individuals.

I believe an amendment of this kind would balance the aspirations of the Aboriginal Peoples with the concerns of those governments who have been hesitant about entrenching a provision in relation to Aboriginal self-government until it is defined. Similarly, Aboriginal Peoples would secure a mechanism whereby specific rights in relation to self-government could be recognized and affirmed in the Constitution of Canada. The mechanism that would be used would be consistent with the historic means by which Aboriginal Peoples have dealt with the Crown.

Finally, Mr. Prime Minister, governments would find their interests protected because a constitutional amendment of this type would allow the concept of Aboriginal self-government to be explored in depth and related to the



particular aspirations, needs and circumstances of particular groups of Aboriginal Peoples, other Canadians and local governments before constitutional entrenchment was considered.

In summary, I believe our amendment will do every bit as much as the initial one put forward by the federal government without committing us to a lot of potential litigation and impractical exercises.

Mr. Prime Minister, Saskatchewan helped design the accord and we will obviously be supporting it.

THE CHAIRMAN: Thank you, Mr. Premier.

Premier Buchanan.

HON. JOHN M. BUCHANAN (Premier, Nova Scotia):

We have been a part of these negotiations now for quite a few years, and it is certainly no secret that as far as Nova Scotia is concerned we have always yearned for this day when there would be an agreement reached on aboriginal rights. Yesterday, I said that this would be successful if all parties ended this conference and there was real progress made in the form of an entrenchment in the Charter and also an accord that had some meaning.

I also indicated that Nova Scotians have always been known for our fairness, equity, sense of justice and rightness, and we have always worked very closely with the Aboriginal Peoples of Nova Scotia. Throughout these negotiations our position has been clear that we wanted these negotiations and this conference to end in an agreement.

We believe that, that agreement should be concluded today. We believe that the proposal which is now before us is a good proposal. I should also tell you that

the parts of the proposal put forward by Saskatchewan were parts of the proposal that had been put forward by our delegation over the last period of time and now form part of the overall proposal that is before us.

As far as Nova Scotia is concerned, we have no hesitation in a constitutional amendment which recognizes the rights of the Aboriginal Peoples to self-government, and we have no difficulty with an accord which permits the Government of Nova Scotia to negotiate agreements with the Government of Canada, the Government of Nova Scotia and the Aboriginal Peoples of Nova Scotia within Nova Scotia.

I say very sincerely today that the Government of Nova Scotia will negotiate in good faith over the next number of years to conclude agreements under this Accord and with all sincerity in the interests of the people of Nova Scotia and the Aboriginal Peoples of Nova Scotia and of Canada generally.

Mr. Prime Minister, there is just one slight suggestion I have to make for purposes of clarity -- and maybe we could all agree on this. In Section 35.01(1), after the word "agreements", that we just add "concluded among the Government of Canada, the governments of a province and the representatives of the Aboriginal Peoples within the province." The only reason I make that suggestion is for purposes of clarity only.

Mr. Prime Minister, this, I hope, will be a very historic day for Canada. Mr. Prime Minister, I believe we have arrived at this point in our negotiations because of sincere negotiations between the provinces, the Government of Canada, the leaders of the Aboriginal Peoples of Canada, because of an understanding on the part of all of us and an appreciation of the rights of the Aboriginal Peoples of Canada, and if I may say so, sir, because of your determination and the determined position you have taken of ensuring that the rights of our Aboriginal Peoples are entrenched in the Constitution, and that is their right of self-government.

So, Mr. Prime Minister, I am just so pleased to be here as a Premier of Canada to participate in this very historic, auspicious period in our history with the hope that we will achieve success today, and leave this conference and tell the Canadian people that we have not only had real progress

but we have concluded an agreement which has a lot of meaning to it, and that we have stood by the Aboriginal Peoples of Canada.

THE CHAIRMAN: Thank you, Mr. Premier. May we go to Premier Miller of Ontario, please.

HON. FRANK MILLER (Ontario): Thank you, Prime Minister.

This is the second of the three meetings required by the Constitution Act to discuss these Aboriginal rights. The goal of these meetings was defined in the Constitution Act as the identification and the definition of the rights of Aboriginal Peoples to be included in the Constitution of Canada. The objective has been to identify the means to put those rights into the Charter. The reason for that to me was simple: to entrench rights to the satisfaction of the provinces and the Aboriginal Peoples.

Now, we have made a good deal of progress. Yesterday, we had a possible solution to which at least five provinces appeared to agree. Today we have an amendment which may have more than five provinces agreeing, but if the information I have been given in the waiting period is correct, it has little support from the Aboriginal Peoples. I do not know that, but that is critical to us.

Therefore, Ontario would like to hold its position on responding to this to make sure that the major objective is met; that is, that it is not only suitable to us at the provincial level -- we can agree, that is not a problem -- I want to hear that our other colleagues are satisfied with it, too, before we give our consent.



THE CHAIRMAN: I will take that as a suspensive affirmation of consent. I would not want to presume upon what the Aboriginal leaders will say. I hope that the proposition will meet with favour. It was not designed in any other way. There could be no other reason for us to be here than to try and honourably advance the cause of the Aboriginal Peoples of the country.

May I go to Mr. Aylward, designated representative of the Premier of Newfoundland.

HON. ROBERT AYLWARD (Newfoundland): Thank you very much, Mr. Prime Minister.

Yes, Mr. Prime Minister, as you heard from the letter which you read out from Premier Peckford yesterday, Newfoundland was willing to go even a little further than the Accord makes out or proposes right now. But we are very concerned that some accomplishment will come out of these meetings, and we will support the Accord. If the proper amount of provinces and Aboriginal groups agree, Newfoundland will gladly support your proposal.

THE CHAIRMAN: We will go to Mr. Lee, please.

HON. JAMES LEE (Prince Edward Island): Mr. Prime Minister, we have had a number of discussions over the noon hour, particularly with some of our own Native People from our province. As I stated yesterday, I have no problem in supporting the federal proposal put forward.

But like Ontario at this point, I think I would like to hear from the Aboriginal groups that are here with us this afternoon to be better enlightened as to their feeling towards this. Certainly, the agreement yesterday was acceptable to us.

This agreement here today could be acceptable to us as well, but I think I will reserve my decision on that.

THE CHAIRMAN: The Aboriginal leaders want to hear where the Premiers stand. I thank you for that, Jim.

We will continue with the Premiers, although I have no hesitation at all in calling upon the Aboriginal leaders. I was advised -- and I can understand why -- by the Aboriginal leadership that they wanted to get a pretty clear indication of whether the Premiers were there in sufficient numbers to meet some fundamental requirements.

The Premier of New Brunswick, please.

HON. RICHARD HATFIELD (New Brunswick): Prime Minister, I want to hear, as well, but I have listened and I cannot say that this is good enough. But it is better than nothing.

As I said yesterday, it has always been true, my expectations were higher. Every constitutional debate I have been involved in, my expectations were never met. However, I think, as you have indicated, that this is better than what it was yesterday, and I would agree. But I do so with the undertaking that I am going to try harder to convince my colleagues that when you do not have real perceived equality in this country, this country has problems. The country will eventually cope with them, but I guess my main concern is that I am afraid that this will not be perceived as being extending equality to all Canadians, regardless of where they came from, regardless of where they live. But it is better, as you said, than it was yesterday, and I will agree on that undertaking, that I will not rest with this.

THE CHAIRMAN: Thank you, Mr. Premier.

Mr. Pawley.

HON. HOWARD PAWLEY (Manitoba): Prime Minister, I think we all knew this would be a difficult process. We knew it would be extremely difficult three years ago when we started this process. It is also, I think, very important that in the process of building, that the building take place with the fullest extent of consensus and views.

I find the present situation to be difficult insofar as Manitoba is concerned. We were quite pleased to support the document that was submitted yesterday, quite satisfied with that document. In fact, Mr. Prime Minister, we would be prepared to support the document as of today that was distributed a few hours ago. But I think it is important that insofar as a provincial position, certainly insofar as Manitoba is concerned, that we do so with some understanding of the views of the Aboriginal Peoples which we are working with.

You have had the opportunity, I believe, to experience those views. We have not in the last few hours, and I would like, for one, as far as Manitoba is concerned, to hear the views of the Aboriginal organizations as to the proposal that has been just distributed.

THE CHAIRMAN: We will go to Premier Bennett, please.

HON. WILLIAM BENNETT (British Columbia): Thank you, Prime Minister.

I would like to sign this document. We have read it very carefully, and I believe that can be done.



There is an area to which we have expressed concern, not only at the meetings here, but leading up to these meetings, that self-government not be considered a sovereignty. I have the feeling that everyone in here agrees with that, that was never the intention, and in delegating powers of self-government, the many models we have in our provinces and across our country now, plus any additional variations, can develop the delegation of powers without creating any uncertainty that what we are doing is granting sovereignty. British Columbia could quite easily sign this document if those assurances could be given with the addition of a few words.

Earlier you said, in regards to the item concerning equal rights for Native women, Aboriginal women, that there should not be a pride of authorship, that other words of others, better words, additional words and preciseness may be part of a constitutional amendment of which I want to be a part.

I am going to have my Minister of Intergovernmental Relations just explain the argument and why we have this concern, and how easily it could be resolved so that we can all go out signators or in agreement. In the past, Prime Minister, you have said, when talking about the Constitution, that it is a tragedy if one or more Premiers or provinces are left out of constitutional change. You have made that in regards to the constitutional change in which Quebec was not a signator, and it would be difficult again when it may be so easy to provide that opportunity for all of us here.

I want every opportunity for self-government,



every model which we do not have to define, if within this Constitutional amendment and change we can just have the assurance that it is not and does not and will never mean sovereignty.

If, constitutionally, down the road in the future governments wish to do that, they can do it at a Constitutional Conference.

I would like one of our lawyers within the Cabinet to just reinforce our concern on how easily it could be resolved, why we would like this assurance and why we would like to stay. I would like it signed today, but I would like to stay until it could be signed. I would like the meeting to continue, giving consideration to our view, knowing how you have been concerned about this over past conferences of which you were not Chairman. I would ask the Honourable Garde Gardom to just add to what I have said, Prime Minister.

MR. GARDE GARDOM (British Columbia): Thank you, Premier. Mr. Prime Minister, your closing remarks before we broke for a sandwich was to look at the material in the spirit of what Canada is. I have attempted to do that. We definitely have concerns with the terminology and the consequences that could flow from the terminology.

I would like, if I may, to deal with this with a degree of precision. If there happens to be any lack of precision, Mr. Prime Minister, please blame that upon me and not upon the concept. At the present time there is being distributed document 800-20/035, which is the British Columbia proposal. If you, Prime Minister, and the Honourable Premiers and Ministers would take a look at it, you will see, and I will

read 35.01 as the British Columbia proposal:

"The Aboriginal Peoples of Canada are entitled to rights of self-government, within the context of the sovereign authority of the Parliament of Canada and the legislatures of provinces now provided for in the Constitution of Canada, that are set out in agreements in accordance with section 35.02."

There is another change, which I am not addressing at this point in time, Mr. Prime Minister, another proposed change, and that would be to certainly add the Yukon Territory and the Northwest Territories to the effect that they would similarly have to pass the necessary Acts to deal with the changes that are proposed which, under your suggestion, only requires an Act of Parliament and Acts of the legislatures of any province.

I would like to get back to the principal issue, and I was very impressed, Mr. Prime Minister, last night and during our various meetings, by the logic of your Minister of Justice, Mr. Crosbie, as to what your federal terminology means within your view. Mr. Crosbie spoke often, and he spoke eloquently from a political perspective -- and I am using his words -- and from a legal perspective. He said, Mr. Prime Minister -- and this is the way I construed his remarks and if I am incorrect, no doubt he can correct me -- in no way would an Aboriginal government be construed as a sovereign order of government. To us, that means that an Aboriginal government does not mean a sovereign order of government in Canada or a government outside the parameters and outside the powers of the federal government and provincial governments or a government

in the international sense.

Mr. Prime Minister, I think it is a pretty trite concept, but indeed it bears repeating, that a law, to be effective, has to be clear; it has to be concise; it has to be certain; and it has to be capable of enforcement.

But the Constitution of Canada, Mr. Prime Minister, is not just a law; it is the law, the supreme law of Canada. Again, I think it is of interest for us to not forget the very strong words that are contained in Section 52, the very strong concepts in Section 52, which I quote:

"The Constitution of Canada is the supreme law of Canada and any law that is inconsistent with the provisions of the Constitution is to the effect of the inconsistency of no force and effect."

Mr. Prime Minister, we feel that the federal terminology, which states "within the context of the Canadian Federation", could become subject to judicial interpretation. Even if it did not become subject to judicial interpretation, surely to goodness, in our view, it should say more clearly what it is supposed to mean from the concept of the federal government, certainly, Mr. Prime Minister, from the concept of the government of our province, and I would tend to think from the concept of the administrations of pretty well everyone at this table. Say it the way it is.

Mr. Prime Minister, it bears necessary reference, I think, for me to make a couple of comments that I did at one of the meetings of Ministers, and at that time I referred to a document that was considered at length during an earlier

meeting. Many of the actors who are at this table were at that table as well.

The party who I believe chaired this report was a Mr. Binnie. His work was loudly acclaimed. This report was delivered at Yellowknife under document 840-228/015, as my colleague from Nova Scotia would say. If I may, and I am not going to paraphrase but I am not going to directly quote each phrase because we do not have the time to deal with that this afternoon, but I am going to quote directly from certain of those pages to emphasize the points that I am making about the fears that we have of not effectively spelling out the fact that there are two sovereign orders of government in Canada.

Referring to page 3 and Mr. Binnie was talking about the Aboriginal Associations, and I quote:

"In general, it was their position that Section 35 contemplates a full range of economic, political, social and cultural rights, which go far beyond the rights of use and occupation of land and includes such matters as self-government."



Carrying on, and again, I am not too sure if Chief Sol Sanderson is here, and I may again have quoted the wrong gentleman, but again, gentlemen, it is my recollection that Chief Sanderson at one of the meetings said this was a very correct articulation of the position, certainly of the Assembly of First Nations, what I am quoting from. Carrying on on page three of Mr. Binnie's report, in their view Aboriginal rights flow from Aboriginal title. This sovereignty has existed from time immemorial. It has not been given up to this day in any part of Canada and continues to exist unextinguished and then they talk about treaties, treaties entered into between the First Nations and the Crown reflect an agreement to share resources and accommodate each other's interests and did not produce an extinguishment of Aboriginal title. Three more quotations, the AFN made it on page eight. The AFN made it clear that its position on Aboriginal self-government could only be discussed in the context of Aboriginal rights and title as self-government is an integral component thereof. Self-government, on page 10, the right of the First Nations to govern themselves, an inherent one, is an inherent one which flows from the Creator and which flows from the spiritual relationship of the First Nations to the land.

Indian self-governments have been in existence since time immemorial and have nothing in common with municipalities and the delegated-power concept.

Carrying on, Mr. Prime Minister, "The First Nations government must exercise plenary governmental jurisdiction over their people and their national territories. Their presentations which were made, highlighted the traditional exercise of jurisdiction over forms of government, ownership of lands, success of lands, the power to determine membership, the power to select leaders by traditional means, the power of taxation and the control over land and natural resources thereof."

Finishing the quotation: "as the sovereign jurisdiction", their word there where, Mr. Prime Minister, as far as I know, unless the position has been altered and if it has, no doubt we can be informed of that, "as the sovereign jurisdiction of the First Nations' government is inherent and not derived from non-Indian governments the notion of delegated powers is considered repugnant."

Mr. Prime Minister, the fact that this could not become subject to matters to be determined by the court, I have to say with every respect, that we really feel is a specious conclusion or perhaps a fanciful non-concern. At the present time in British Columbia, in the Gitskan case which is before the Courts, and I can assure you I am not going to offend the rule of sub judice but the pleadings indicate this, and I am quoting: "in which the self-government rights asserted include total and absolute immunity from provincial law and self-determination in the international law sense".

Now, Mr. Prime Minister, that did not seem to

be the concept that we are talking about of Canadian and provincial sovereignty. And I think, Mr. Prime Minister, in anything that we could do to attempt to reduce uncertainty, reduce ambiguity and increase clarity and say what we seem to feel what this means, I think, Mr. Prime Minister, is the route to take because what we are informed is to be the concept of the definition may not indeed agree and we, certainly, have the capacity in this country to disagree and thank God for that. It may not be agreed to by the native community.

In concluding, Mr. Prime Minister, again talking about the material in the spirit of what Canada is, I think the fact that we can have differences here and indeed, very genuine differences, are matters of value and I would say our blessings to and thank God for this country when we can have these opinions of difference and they can be freely and they can be frankly and openly discussed and without fear and without favour.

THE CHAIRMAN: Mr. Gardom, I thank you for the very knowledgeable tour de raison of the law and jurisprudence and I know how delicate the matter is. You speak, not without good reason, of the wish to reduce uncertainty and to eliminate ambiguity. You know, how un-Canadian those two wishes are, and we have to be careful in the process of doing that, we do not eviscerate the process. But I think we all hear the message. The message on the other side is, of course, that dignity and self-worth cannot be compressed into little boxes,

they have to mean something and they have to be living, breathing things and I think that is what we are trying to somehow accommodate today. But I thank you, sir, for your view. Premier Lougheed.

HON. PETER LOUGHEED (Alberta): Thank you, Prime Minister. I believe the objectives of every party at this table are very similar and certainly what we are trying to do here is to find ways to really right some wrongs and to assure that the Aboriginal Peoples of Canada have a greater say, a significantly greater say, over their own lives and control their own destiny, and yes, very much so, to use your last phrase, the dignity and self-worth of the Aboriginal Peoples of Canada have to be significantly improved in this country. We have to assure equality. The question of how and how to go about is, I think, a very fair question for people to discuss. I have some difficulty with people suggesting that one has a different point of view, which was your earlier remark today, that somehow or other one's motives should be attacked when one comes to a conclusion in a different way. I, frankly, do not think that is fair.

We, in the province of Alberta, have quite different circumstances than the other provinces. We have a situation where, essentially, most of the treaty Indian people within our province, who are not basically at the table, you will not be hearing directly from them in terms of the discussions here as the afternoon goes on, and in addition to that, we have within our province of Alberta



a land base for the Metis people, as I mentioned yesterday, in terms of settlements.

I mentioned yesterday, as well, and I believe Alberta's position has been consistent throughout, that we are dealing with a Constitution of Canada and we are looking at amendments and provisions. It is not just a document that involves a bill that can be amended. It is not a document where the phrases do not count because, like it or not, we are going to have over time, considerable interpretation of the document that is before us today.

One of the points that I made yesterday, I made it, I think, as clearly as I could, is that we certainly in Alberta do not accept the fact that there should be anything other in our Constitution than two sovereign governments, the federal and the provincial level of government. My understanding is that there is difference of view around this table as to whether or not the amendment proposed by the federal government and put before the table, that is now being discussed, does or does not respond to that particular situation. In addition to that, we, in Alberta, face the position I have just mentioned that was expressed yesterday by the Prairie Treaty Nations Alliance, and I mentioned this matter in 1983, and they made the comment yesterday, and Mr. Cardinal made it and I quote: "We who are Treaty Indians are concerned that that particular proposal" and they were referring to the federal proposal of yesterday,

"does not recognize self-government as a treaty right because self-government for us is an integral part of our treaty" and that was the position that was expressed here.

Now, there certainly are still many unanswered questions, but as I mentioned, as we concluded the discussion yesterday afternoon, Mr. Prime Minister, the participation that we were involved in was a really full effort on our part to see if we could come to a conclusion with regard to this document. We look at it and there certainly has been some improvements made over the course of that evening discussion in the document that is before us. We still have the concern with regard to sovereignty as has just been expressed by British Columbia, even though I think it is clear, and I think you, and your Minister of Justice, have been clear that that has not been your intention and that is not your intention that there be developed another sovereign level of government, and the difference is whether or not this, in fact, captures it. So we, I think, we are consistent on this to come to this conclusion: we are not prepared to reject this proposal out of hand but we are also not prepared to sign this document today. I really, frankly, am concerned, I realize the pressure that is around the table today, I have lived with this for a number of years, and there is a pressure to sort of be on board, but we are dealing with the Constitution of Canada, and so for two reasons, we are not prepared to sign this document today.

First of all, I want an opportunity, I do not think I would be credible, frankly, from what I said yesterday, and what the Prairie Nation Alliance people said in response to merely just sign this document until we have had discussions with them and hear them out and hear their concerns, as I have just expressed. I want an opportunity to do this. I want a further opportunity to consider the legal advice that I have received since I have come to Ottawa. Perhaps the Minister of Justice is right. I am prepared to be opened to the view he is right most of the time, and to consider the views that he has expressed and that my concerns or the legal advice that I have had is not valid, and not a concern.

So our position is a reserved one. We see significant improvement, Prime Minister. We appreciate the motives that are involved here. We want the opportunity to talk to our treaty Indian people, as I mentioned, and we want the opportunity to consider the other legal concerns that have been raised with this and in due course, very shortly, we will get in touch with all participants here and communicate our final position.

THE CHAIRMAN: Thank you, Premier Lougheed. May we go to Jim Sinclair, please.

MR. JIM SINCLAIR (Metis National Council):

I just wanted to make a brief comment. I understood in response to British Columbia that when we began the agenda for the Constitutional conference, Canada's sovereignty was not put on the table, as one of the agenda items, and as I understand, it would only

be fair then not to put Aboriginal titles on the table as an agenda item to be sold down the river, to be dickered with. So I think on that basis then we are dealing on an issue here that is important to us but I am not prepared to get into the Aboriginal title theory again. As we have said before, we believe that we have the rights that we cannot give away or bargain away at any time and our ancestors have never done that, and we are not prepared to do that. And we want to keep that right to Aboriginal title and the right to negotiate. We are looking at an agreement but we do not want to put the sovereignty issue on the table, as against Aboriginal title. That is our feeling about it. We are here to make an agreement. We are prepared to make an agreement on self-government and I do not think Canada's sovereignty has been on the table and then our Aboriginal title should not be on the table as well.

MR. DAVID AHENAKEW (Assembly of First Nations):

Thank you, Prime Minister. First of all, let me begin by saying, thank you, Mr. Prime Minister, for your commendable and determined effort to generate some action and not just slow progress at this conference. We are very grateful to those government leaders and Premiers who have listened very carefully the last several years and have supported the First Nations in trying to achieve the fundamental right of self-government, which is so very important to us.



We are talking about honour, respect and dignity. That has been precisely our objective; always to follow those principles that are so important to the make-up of any people in any country. We do support you in this, Mr. Prime Minister, but not the proposal.

The purpose of the First Ministers Conferences is to constitutionalize rights. That is our reason for sitting around this table. The AFN position is very simple, and that is the immediate constitutional recognition of self-government and subsequent constitutionalization of rights after negotiation. The proposal that is before us on self-government has some serious flaws, some serious deficiencies; for example, no compelling commitment to negotiate. From there, we move on to negotiate agreements. Then we go on to negotiate declarations. Then we go on further to where Parliament and legislatures must pass laws. Mainly, there is constitutional entrenchment of Indian self-government and other rights that we may negotiate.

Mr. Prime Minister, in my statement I said that First Nations have an inherent and distinct right to self-government. So, any relationship with Canada must begin with the basic unqualified constitutional recognition of that right. It is only if there is a basic recognition of our inherent self-governing right that there will be any incentive for the government of Canada to move with reasonable speed to resolve the specific questions of jurisdiction and physical relations with the First Nations.

Mr. Prime Minister, I would like to ask your indulgence to have Chief Gary Potts highlight the severe

concerns that we have with the proposal.

MR. GARY POTTS (Assembly of First Nations):

Thank you, Chief Ahenakew.

The Assembly of First Nations has now had an opportunity to take a look at what appears to be a very watered-down version of the federal proposal, which appears aimed at federal-provincial consensus rather than acknowledging that Aboriginal Peoples have the right to inherent self-government in the Constitution.

At the outset of this Conference, in his opening remarks, the Prime Minister said: "Let us decide at this Conference that our Constitution shall acknowledge that the Aboriginal Peoples have a right to self-government."

Mr. Prime Minister, this latest federal proposal falls short of the goals which you outlined at the outset of this meeting, and it falls short of the position tabled yesterday by the Assembly of First Nations. It does not reflect the position of the Assembly of First Nations or the other Aboriginal organizations that our inherent right to self-government be recognized in the Constitution. We proposed yesterday that the Constitution should be amended to read: The Aboriginal Peoples of Canada have the right to self-government within Canada.

The current federal proposal before us reads: The rights of the Aboriginal Peoples of Canada to self-government, within the context of the Canadian federation, that are set out in agreements referred to in Subsection (2) are hereby recognized and affirmed.

Mr. Prime Minister, anyone reading these two clauses would see immediately that the federal wording does not

propose an amendment to recognize the right to self-government. Rather, the federal proposal would recognize only the right of Aboriginal Peoples to a process to negotiate the right of self-government. Even then, Mr. Prime Minister, your proposal does not guarantee that these negotiations will occur, or if they do, that the agreements reached through negotiation will ever be constitutionalized. We cannot accept such a proposal for obvious reasons.

Clause 35.02(b) in the federal proposal also alters the Constitutional status quo by bringing the province into the federal jurisdiction of 91.24 for Indians and land reserved for Indians. It says that the provinces have to ratify agreements in their own legislatures. This provincial incursion into present federal jurisdiction is totally unacceptable to many First Nations.

Mr. Prime Minister, we are tired of fighting the rearguard action at all these Conferences to protect the rights of our people. It was clearly laid out in the 1983 Constitutional Accord that this process was aimed at elaborating and finding mechanisms to implement our rights already recognized in Section 35. Now it would appear that the federal and some provincial governments are banding together to erode whatever rights we may have in the Constitution and to ensure that our rights will never be enforceable in the Courts in Canada. In fact, the new proposal even goes so far as to remove the commitment to negotiate. For the Assembly of First Nations the commitment to negotiate and conclude agreements is essential for setting the tone of good will. We cannot agree to the deletion of this



commitment.

The Aboriginal Peoples of Canada require a commitment to negotiate on the parts of both levels of government that they choose to negotiate with and a commitment that those negotiations will conclude with agreements which will be guaranteed constitutional recognition.

Mr. Prime Minister, the need for a clear declaration that we have the right to self-government is highlighted by the Yukon Indian land claim negotiations. When the Yukon Indians wanted to negotiate the right to self-government, they were told by the federal and Yukon governments that they had no right to self-government and it was therefore non-negotiable. We would like to add that the proposed non-derogation clause would be of little effect when the federal and provincial governments take the position that there is no right to self-government, as they did upstairs last night and early this morning. We strongly urge you, Mr. Prime Minister, and your provincial colleagues, to take the final step towards enlightenment and entrench a clear declaration that the Aboriginal Peoples have the right to self-government within Canada. Thank you.

THE CHAIRMAN: Mr. Crosbie, please.

HON. JOHN CROSBIE (Canada): Mr. Prime Minister, I would like to address myself to some of the points that were raised by Chief Potts.

First, there is a guarantee in this document that negotiations will go forward. In addition to the amendment we are proposing, in this document, 800-20/041, the amendments to the Constitution, there is also a proposed



1985 Accord which we would hope that all provinces and the territories would sign.

In Section 2 of that document, it states very clearly: The Government of Canada and the provincial governments are committed, to the extent that each has authority, to (a) participating in negotiations directed to concluding with representatives of Aboriginal Peoples living in particular communities or regions agreements relating to self-government that are appropriate to the particular circumstances of those people. That is a commitment. This is a solemn Political Accord, were it accepted and entered into by the governments concerned, and they would be committed to participating in negotiations with Aboriginal Peoples for agreement leading towards self-government. That would be a solemn and clear commitment. A commitment does not have to be in the Constitution. Every government in the world enters into commitments by way of agreement or otherwise, and that is what is being suggested here. I think it is grossly unfair to suggest that simply because this commitment to participate in negotiations is taken from a suggested Constitutional amendment and then put into a Political Accord, a document that would be binding on governments, that if they did not observe it would leave them covered in shame and convicted of bad faith in the eyes of the public -- I think that is very much stretching a point.

The guarantee to negotiate that is in this Accord is every bit as good as a guarantee would be left in the amendment. I just wanted to point that out.

With respect to Section 91.24, the Government of Canada has to accept that this is a federal state. I believe

that all the parties at this table, Mr. Prime Minister, have to accept that this is a federal state. There is one Government of Canada and there are ten provincial governments. The provincial governments in certain areas of legislated jurisdiction are supreme. We cannot interfere with them. We cannot force them to take action. We can only attempt to persuade them if we think a certain course of action is right or to use reason, which is what we are attempting to do here. Believe me, we are not banding together with any provinces, Mr. Prime Minister, and that is an exaggeration which I do not want to leave on the record. We are playing a solo game here, in which we are trying to get ten provinces, four Aboriginal groups and two territories -- the Yukon and Northwest Territories -- to agree on a certain course of action. That, to start with, is an almost impossible task that we have been engaged in now for six months. To suggest that we are banding together with the provinces is simply not correct. We have been working with the provinces and the four Aboriginal groups and the territories to try and accomplish a Constitutional amendment that will recognize clearly the right to Aboriginal self-government. Unless we are all prepared to be a bit more forthcoming, I do not see how we are going to get a breakthrough on that.

Section 91.24, the clause that Chief Potts objects to, is a clause that says that once there is an agreement with representatives of Aboriginal Peoples setting out rights of self-government and that agreement includes a declaration that it should be constitutionalized, then the agreement would have to be approved by an Act of

Parliament and an Act of the legislature of the province in which those particular Aboriginal Peoples live.

Once again, we cannot ignore the provinces. Aboriginal Peoples and all Canadians live in a province or a territory just as they live in Canada. That is all we are suggesting here. It is not going to interfere with our rights under Section 91.24 to deal with status Indians and Inuit and to deal in matters of treaties and in matters of land claims and the like. They are not affected by this. However, just in the event that they might be affected by this -- and the Prairie Treaty Nations Alliance, I think, is concerned about that -- we are quite willing, and I am sure others who might be willing to sign this Accord would be willing to add to the non-derogation clause here that nothing in this amendment should derogate from any right to self-government that Aboriginal Peoples might have elsewhere in the Constitution. We could add to that clause: Nothing in this section abrogates or derogates from any rights of self-government or any other rights that the Aboriginal Peoples of Canada may have or any rights they may acquire by way of treaties or land claim agreements. I think that should meet any problem that you might feel with respect to that clause.

Mr. Prime Minister, I said yesterday that you have to have faith in the Constitutional process. There was a lot of faith shown in 1982. No one could foretell how clauses would be interpreted, and the same is true here today.

If you would give me the time, Mr. Prime Minister, I would like to touch on a point that Premier Lougheed made and Premier Bennett through Minister Gardom. When we are trying to reach an agreement in this process we have to be



careful of certain words and concepts that are abhorrent to the people we are dealing with. Clause 35.01 is carefully drafted and it says: The rights of the Aboriginal Peoples of Canada to self-government, within the context of the Canadian federation. It is clear to me that that indicates that there is no third order of government, that there is no concept of giving any sovereign rights here because the rights are within the context of the Canadian federation. That context was set in 1867, and unless we agree to constitutional amendments that change this and clearly set up another level of government and give it certain jurisdictions, it is quite clear that the rights we are dealing with in this schedule are within the context of the Canadian federation. They are not sovereign rights. They would be rights that would go to that level of government with those people as worked out on a local and regional basis.

I know Premier Lougheed wants to consider this; he has not rejected it out of hand. That is why we feel we had to leave the wording as it is, because a change in the wording such as suggested by Mr. Gardom is not acceptable to the Aboriginal Peoples.

Those are some of the points, Prime Minister. What we are trying to do here is get an accommodation with all of these various interests, and what this does is acknowledge the right of Aboriginal Peoples to self-government. As the Prime Minister pointed out when we started, if accepted, it is a tremendous step forward. Certainly, we would not be at the end. We have two more years to go before the last Constitutional Conference and many more years will probably be needed before all these issues are settled.



THE CHAIRMAN: Thank you, John.

When we began, I extended an invitation to the conference to try and break free from the old stereotypes and the old rhetoric, the old set speeches that we haul out, because all they have done is guaranteed failure and a lack of progress for the Aboriginal Peoples over too many decades. If that criticism applies to me and people like me, as it does -- the Aboriginal leadership is not free from it either -- I think if you want to move ahead, you stand right up and take your responsibilities or knock them down. Fair ball. But the old stuff is not good enough any more. The old rhetoric, we have all heard that. It just does not move anybody, nor does it move the cause along.

There can be no doubt in the mind of any objective observer of the intention of this government and these leaders to make dramatic, substantial progress on behalf of the Aboriginal Peoples of Canada. There can be no doubt about that.

I am sure there is legitimate disagreement as to how much and when and how, and that is fair ball. But I think we should approach it from the point of view of acknowledging with no malice that progress is on the table, that it is real, and substantial and can be measured and quantified and pointed out as opposed to resorting to old shiboleths that tire even the most devoted follower of Aboriginal Conferences on the two. There are still a few left in this country.

Mr. Nerysoo.

MR. RICHARD NERYSOO (Northwest Territories):

I might be one of those.

However, Mr. Prime Minister, first I would like to

clearly commend you and the Minister of Justice and also the Minister of Indian Affairs for carrying on the process to seek some particular consensus in reaching an agreement. But I would hope that the discussion that seems to be arising at this time is not the basis for failure at this particular conference, as you have indicated.

I do hope that we continue to work to recognize the right of self-government for the Aboriginal Peoples of this country. But more importantly, I think that we all have to work to reach a consensus on assuring that there is a commitment on the part of the provinces.

Mr. Prime Minister, I find it somewhat difficult, I believe, I guess in somehow ensuring that we are going to have some agreement today, particularly with regard to the comments that have been made. That is unfortunate, unfortunate because there are many Aboriginal Peoples in this country that do not, at this time, have any protection.

We can talk about the British North American Act as it is now, and fortunately, I believe that those people are termed Indians under that particular Constitution Section have a certain protection. But I really am concerned that if we do not somehow try to address all Aboriginal Peoples in this country, which include the non-status and the Metis, and ensure somehow a protection for their right to self-government while at the same time addressing the outstanding issues as it applies to the present people that are protected, then I really feel that we are going to fail. Even more so, I feel that those people who do not have protection will continue not to have protection.

Now, I think we have to set aside at times our personal well being and look to those people who are not protected at this particular time and juncture. More importantly, I believe that it is necessary to assure that in the Constitution there is that right of self-government for the Aboriginal Peoples. For every little piece of movement that we can make at a particular conference of this nature, it is necessary to recognize that we can come back, we can come back to this conference table and we can make the appropriate changes to reflect every concern that we have. It is important to recognize that fact.

More importantly, Mr. Prime Minister, I would hope that the discussion that is going on around this table at this particular juncture is not a sign of the potential failure of an item that we can be successful on. Even more so, I would hope that we would not dilute any further the suggestion of the document that has been put on this table. Even more, maybe we could move further ahead, that we can add something to this document.

So, I really hope that we can somehow improve the document as it is and move further. I know for a fact that it is not as good as the Aboriginal Peoples want, and certainly not as good as what I would like, but if it is for the purposes of getting the Premiers, the Prime Minister, the Government of Canada and all the provincial governments recognizing that there is a right to self-government for all Aboriginal Peoples -- and I refer to all Aboriginal Peoples -- that is important. That is the key to this particular conference. We can move from there.



I would really hope that we could move, as of today, recognizing, of course, the circumstances under which we have worked in dealing with the Constitution, in amending the Constitution, the difficulties that are associated, that we can move from this table here today, recognizing that particular right and as it applies to all Aboriginal Peoples.

Mr. Prime Minister, if I could allow my colleague to add a few more comments with regard to this particular issue.

THE CHAIRMAN: Mr. Patterson.

MR. DENNIS PATTERSON (Northwest Territories):  
Thank you, Mr. Chairman. It seems that we are very close. As I understand it, Aboriginal organizations, after having compromised and compromised and, of course, they were not the only ones -- there were major compromises made on both sides until late last night -- it seems they are now really concerned about significant provincial and even territorial involvement in areas of jurisdiction that they have not up to now been involved in, but without that unencumbered declaration of the right to self-government.

I think if we could have come a little closer to making a clear declaration of the right to self-government alongside the negotiation process, we would have agreement now. I agree with my colleagues that we are not very far away, if we do not reach that point by the end of this afternoon. We, of course, want to wait to hear from the Aboriginal organizations. We respect them. We will defer to them.

I think if there are some who wish to seize the time and with courage try to make this process work, we would



want to give them the chance and support giving them that chance, even if it looks like a rocky road. I would not like to underestimate the importance of political commitment. I think that is not to be taken lightly, and that shows considerable progress. It could have been stronger, but I do not think governments make political commitments lightly either.

In conclusion, Mr. Prime Minister, I think we have come some considerable distance. I think there has been better humour and more openness than I have seen to date in these talks, and increasing respect from all sides. I think everyone has tried very hard. It may take a little more time, especially if there are doubts amongst the Aboriginal Peoples for whom this process is for, ultimately.

I think we can build from here, and certainly the Northwest Territories is willing to continue with vigor in our area where we already have a process in the Constitutional Alliance, that we are going to try to make it work, and at this national level. Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Mr. Patterson.

Before I recognize Mr. Daniels, there is a word that I ought to have made yesterday. I would like to refer to it now.

Both I and the federal government accept that the Metis and non-status people have unique problems regarding the protection of their rights. I, of course, confirm today -- as I have in other circumstances -- a commitment to attempt to recognize their special needs. I am going to be convening a meeting which I will personally chair with the leaders of the Metis and the non-status people, with Mr. Crombie and Mr. Crosbie,

to examine ways in which we can work together to guarantee their rights and obtain that equality which the Constitution Act envisaged. It is somewhat overdue.

Mr. Daniels, would you proceed, please.

MR. HARRY DANIELS (Native Council of Canada):

Mr. Prime Minister, I am sorry, I need about two more minutes because I have to have a chat with my President in view of the statement that you have just made, if I could have that time, please.

THE CHAIRMAN: Sure.

MR. HARRY DANIELS (Native Council of Canada):

Maybe you can get someone else in the meantime.

THE CHAIRMAN: Inasmuch as Harry could not take two minutes to save his soul, we will go for a quick coffee.

---Short Adjournment

---Upon Resuming

THE CHAIRMAN: May we begin please colleagues.

I think time is running and I know many of the participants and I am sure most Canadians who have watched the proceedings and have followed this process with interest, expect us at a given point in time to fish or cut bait, and that is where we are.

I would just like to review for you where I believe we are. We have some substance on the table that I summarized before, we have the guts of a resolution, we have the guts of a Constitutional amendment, a right to self-government for Aboriginal Peoples recognized in the Constitution. We appear to have the requisite number of provinces to proceed forthwith for the Constitutional amendment. We have a solemn agreement for specific negotiations regarding these rights and a work plan agreed upon by the Prime Minister of Canada, to have honoured and enforced in co-operation with the provinces and the Aboriginal leadership. And then when the process is completed and the parties have agreed these further arrangements are susceptible of being constitutionalized. That is the beef. That is where it all is and it is of very considerable substance.

That by itself while impressive is worth little without the approval of the requisite number of provincial Premiers with the population flow pursuant to the requirements of Constitutional amendment, and we have indications, strong indications of support, prefaced, I will acknowledge in some cases, pursuant to what they might hear but there is no doubt in my mind that the Premier of Ontario, the Premier of Manitoba,

New Brunswick, Prince Edward Island, Newfoundland, Nova Scotia and Saskatchewan have indicated their support of the substance of what we are trying to do. Other Premiers, for example the distinguished Premier of Alberta, has indicated that he would like to take another look at it subject to some clarification and given the timeframes that may be possible and I am sure it would be helpful as it would be with my colleague, the Premier of British Columbia. But be that as it may we have got the horses right now and we can make a deal, and a deal of great substance, and a deal of considerable moment. And it is of value only to the extent, and with the support of my provincial colleagues, I am ready to proceed to the House of Commons at the earliest possible moment and prepare this resolution and have it passed by the House of Commons and sent to the provinces for their consideration, provided this is deemed to be a movement forward by the Aboriginal leaders whose people it was designed to help.

Minister Crombie has received from the PTNA, Harold Cardinal and Sol Sanderson, strong indications of support, provided the bilateral arrangements take place and we propose to agree with that. I would like, in the interests of clarity and to make absolutely certain that we are all on the same wavelength, and I am very impressed by what Richard indicated a few moments ago, that there is a great deal that has been accomplished and we can build upon it, we can use it as a building block for future progress in this highly difficult area. So I would like to go now to the leaders of the four groups at the table and ask for their views and their guidance and their advice. I think we know what we are talking about.



You know that we have succeeded in persuading our provincial colleagues to make a major move, but it is only of value provided the leadership of the Native groups believe it to be. I do not believe in unilateralism. I do not believe in imposing something without the consent of those people who would be most affected by it. So we need your help and we need your advice and I turn now to Harry Daniels, and I will move quickly to the three other leadership representatives. Mr. Daniels.

MR. HARRY DANIELS (Native Council of Canada):  
Thank you, Mr. Prime Minister. I have one question for you only before I make my statement. Just prior to coffee break you made a statement vis-à-vis your willingness to set up a bilateral process or some talks with the Metis and non-status Indians with regard to our unique rights and our special needs. Did that include the discussion on a need for a land base for our people?

THE CHAIRMAN: Yes.

MR. HARRY DANIELS (Native Council of Canada):  
In that regard, Mr. Prime Minister, we can support you, and I am dismayed that the provinces of this country after we have been conciliatory, compromising, could not support you in a much greater fashion. You have our support.

THE CHAIRMAN: Thank you Mr. Daniels. Mr. Sinclair.

MR. JIM SINCLAIR (Metis National Council):  
I have had a lot of pressure on me the last couple of days, you understand, and it seems to me I was trying to put pressures on others and it somehow turned back on me, and I suppose that is the world of politics. It has been 100 years since the Metis were defeated at Batouche. It has been 100 years since people

have lived in the slums and outside the urban centres and on the road allowances and have not had the right to go to school, have not had the right to any particular programs, have not had any of the rights that Canadians enjoyed. Many of our people have gone to jail, to prison, for hunting game even though they had no jobs, even though nothing was available at all except the game and they were put in prison for killing game.

I think we have come a long way as far as organizations. We have people who have fought for our rights, people like Howard Adams, Jonas Faveux, Robby Fontaine, Stan Daniels, who are gone now, and I think the burden would have to rest on my shoulders, coming from the province where the resistance took place, if I did not come out of this Constitutional Meeting without some agreement.

We feel that the right to self-government is paramount and though it falls short of what we feel is good for us, we feel that we could make up for it with our political capabilities. We have the leadership, we have the commitment. We have institutions now in Saskatchewan that we have built over a number of years along with the help of the governments and we have an organization that is a democratic one, one person, one vote. We have tried to set a balance between that organization and the institutions that we have put into place. We cannot move any further on those institutions without a Constitutional amendment for self-government. We are at the limit. We are at the crossroads where we cannot move one step further. That is why we have to say yes to the agreement, and the other thing, I think the reason I am saying yes as a political leader - I said from day one we wanted a political solution, not one that was draffed through the courts where the politicians could sit

at home and wait for the courts to make decisions on our lives. And I suppose that maybe the burden falls on our shoulders more heavily than government's; I will still take that responsibility of carrying forward the commitment that I am making here today. And I will expect the Prime Minister and every Premier who signs this agreement to also share that burden in reaching a working agreement that is acceptable to us, and talking about enforcing it, I hope you do not have to use the word enforcing it. I hope that we will sit down from time to time during the next year, work out the problems, work on agreements and begin to reach some solutions and consensus for Constitutional amendments.

I think that the other thing that is important to us is that if we find it is not working in two years, I want you to leave self-government on the agenda so that we can take another look at it and decide if some people have been dragging their heels, and then maybe put some enforceability clause in the Constitution to force us to the bargaining table, to force us to negotiate. At the same time for my Indian brothers here to my left, I hope I am not accused of selling them down the river but we have been left up too long and I am sure that the non-derogation clause will protect their rights. And I am glad to hear that Chief Sol Sanderson is in some support of the position and that the bilateral agreement is intact because that is important for us. We have to co-exist in Saskatchewan with our People there as well. I think at this time on behalf of the people behind me that worked so hard, that are not even in this room, it is an historic move when we have for the first time ever the entrenchment of the right to self-government. So with that, Mr. Prime Minister, I support the motion.



THE CHAIRMAN: Thank you, Mr. Sinclair.  
Mr. Zebeedee Nungak.

MR. ZEBEEDEE NUNGAK (Inuit Committee on National Issues): Thank you, Mr. Prime Minister. At this time I feel like on my shoulders I have the burden of the top third of Canada from Tuktoyaktuk to Grise Fiord to Nain, Labrador to Kuujjuarapik in Northern Quebec. I have to acknowledge, as one who has sought support in all sections of the country and having criss-crossed --- (microphone for Mr. Nungak malfunctions with echo).

MR. HARRY DANIELS (Native Council of Canada):  
Divine Providence.

MR. ZEBEEDEE NUNGAK (Inuit Committee on National Issues): Mr. Prime Minister, --- (microphone for Mr. Nungak malfunctions with echo). This must have been one of the mikes that you used at the National Economic Conference! They sent it for repair and did a job on it.

Seriously, Mr. Prime Minister, and Premiers, fellow Aboriginal leaders, we want so much on behalf of the Inuit of Canada to say, yes, to an agreement that is going to entrench our right to self-government in the Canadian federation. We want so much to do so and we have been diligent in our pursuit of just such a thing that has been developed in the past two days, or in the past four or five months, which has culminated in your enumeration of what is on the table as a package on this issue. Unfortunately, and partly because of the consequences of 1912 being amongst us, if we say, yes, or if we say, no, either way we are damned if we do and damned if we don't, because some of our people live under



provincial jurisdictions and the way this is drafted, we are putting in jeopardy the conditions of the Inuit who do live in provinces. We have very serious concerns and reservations about the clauses, especially that deal with provincial participation. The implications of those at this time and because we have experience of signing an agreement without having that agreement ratified by our membership and then some of our people breaking away.

We feel the pressure of having to say, yes, and we do want to say, yes, but at this time we feel that the pressure we are under, with no recourse for the agreement we may agree to here being ratified by the people who we represent in the three jurisdictions in which Inuit live in Canada, is something we have to--it is something that--it is very heavy for me to say this Mr. Prime Minister, and I do not want to stumble along, but some of our people are going to be penalized, we feel, or we know, if we say, yes.

I have to acknowledge in saying that the distance, the tremendous distance that has been covered, and the value of the agreement, the amount of agreement, the numbers of provinces, the numbers that are there, and I do not want to knock them whatsoever, I have great respect for what has been accomplished this afternoon, but, unfortunately, because of the conditions and concerns that I have expressed to you, and because we feel that our people in the various far flung communities of the

North deserve a chance to examine and to take part in a decision that we, as leaders here, would be forced to make, leaves us no recourse other than to say, no, but with the condition that we have a very solid hope that if further meetings could take place within the next year, solutions that we are seeking and the concerns that we have will be addressed in a substantial way.

I would like my colleague Mr. Amagoalik to add to what I have said.

THE CHAIRMAN: Just before you do, I will try and see if we can begin the process of transforming a reluctant no into an embryonic yes. First of all, I should tell that many of the people to whom Mr. Nungak speaks are constituents of mine and so it is a long, long way away, so those of you who see expenditures in the Transport Department for roads in Manicouagan, I hope you understand. The fact of the matter is that the question might properly be, given the distance, the enormous distance, I think the Premiers could, I hope, keep their consent on hold for a period of time, say, six weeks or two months, during which you could consult with your people back home. If that were acceptable and if the results were positive, you could convey them to me. Would that be fair, would that be a way to find out whether this is acceptable, because I believe the Premiers having come this far, and all of the participants having worked this hard, and recognizing your special problem

of communication, would give you the six weeks or two months in which to check with your people back home and so advise me. I hope the meeting would agree that that would be a fair way to proceed and I hope you would agree, colleagues, to allow me to make this suggestion publicly to Mr. Nungak. Would that be fair ball?

MR. ZEBEEDEE NUNGAK (Inuit Committee on National Issues): Yes, this would give us a period of grace, so to speak, to consult with our people and seek their advice and support on the decision that I, myself, as a national leader, would be forced to make unconditionally without any recourse for consultation. I think perhaps my colleague, John Amagoalik, could elaborate on our concurrence with your suggestion.

MR. JOHN AMAGOALIK (Inuit Committee on National Issues): Thank you, Mr. Chairman. I think what you are suggesting would be helpful to both sides, both to us and to some of the provinces. This was one of the reasons why we suggested originally to have a three-day conference, because, as you say, we are so close, we are so close to a substantial agreement. We only have so much to go and if only we had one more night, perhaps with Saskatchewan, perhaps with Nova Scotia, we could convince them to go that extra distance. If we had had three days, then we might have had a real agreement by tomorrow, but what you suggest is very valid. I think if we were to, say, adjourn this meeting and reconvene in sixty days, I

think at that time, then we could very well have an agreement.

THE CHAIRMAN: Well, I thank you, that was not my intention. My intention is not to adjourn the meeting. My intention is to proceed and to hear a final presentation from the AFN but to give you ample time to hold the matter in abeyance pending your checking with your people up North and letting us know. In other words, we would not proceed--I think we could probably hold things up until we heard from you, because it would be very important that you have the opportunity of consulting. It was with that in mind that I made the suggestion. I do not think we will adjourn the conference. We will terminate our work here. We will, hopefully, have an agreement, with a suspensive condition on your part we could agree to but nothing that would take place that would prejudice your rights, give you ample time to consult with people back home and let us know.

MR. ZEBEEDDEE NUNGAK (Inuit Committee on National Issues): Yes, Mr. Prime Minister. I would just like to articulate very, very briefly some of the concerns and they are very legitimate concerns for our people that cause us to do this. I do not want to be seen by the supporters we have here around the table as turning weird or turning bad or turning sour. I would just like to have my colleague, Mary Simon, articulate very briefly some of the main concerns that caused us to take this stance, Mr. Prime Minister, with your indulgence.



THE CHAIRMAN: Mary.

MS. MARY SIMON (President, Makivik Corporation, Inuit Committee on National Issues): Thank you, Mr. Prime Minister. With all due respect to you and the honourable Premiers, I would like to make a statement on behalf of the Inuit of Canada.

We Aboriginal Peoples in this room, more than anyone else in this room, want an agreement on self-government, but we have serious reservations with the agreement that is before us. In the spirit of co-operation and in trying to make a positive contribution to the process, I would like to elaborate some of those concerns that we have in terms of the agreement.

ICNI firmly believes that the political commitment to negotiate should be in the Constitution. If self-government is a legitimate and pressing objective, as the Prime Minister has so clearly stated in this Conference, if it is agreed around this table that self-government is a fundamental right of Aboriginal Peoples and crucial to our survival as distinct people and to our future, if we collectively believe that Canada must be made big enough to accommodate the vital aspirations of Aboriginal Peoples, then there should be no hesitation whatsoever to enshrine the essential commitment to negotiate self-government in Canada's Constitution.

We are not ashamed of our aspirations toward self-government in Canada. We are proud of it. We will not apologize for it; nor do we wish to bury it in an Accord.

If we are all serious about self-government, the federal and provincial governments must be prepared to

put their commitment to negotiate where all Canadians can see it. If we allow a mere political commitment to negotiate to be relegated to an accord, we will be vulnerable to changes in government policies as new governments change or be replaced by existing ones following elections. Your reassurances in this regard are not enough. We understand that some of the provinces such as Saskatchewan and perhaps Nova Scotia are afraid of being taken to Court on a political commitment. ICNI believes that such an unwanted concern must not be allowed to hold back consensus and prevent Constitutional agreement. If there are concerns about being taken to Court over a political commitment, how would putting a political commitment to negotiate in an accord resolve such a concern? Is the accord not meant to represent a binding agreement? In order to put the concerns over lawsuits in a more realistic perspective, I believe we must look at the Canadian Constitution and what the Canadian experience has been to date, especially with Section 36 of the Constitution Act 1982.

Section 36 deals with equal opportunity and the reduction of regional disparity. More importantly, Section 36 is phrased as a political commitment. To our knowledge today, we do not believe that this Constitutional commitment has led to even one Court action. Surely, if the political commitment in Section 36 to provide essential public services of reasonable quality to all Canadians could allow for Court action, there are many Aboriginal Peoples and other Canadians who would have been justified in enforcing such a provision.

In conclusion, we believe that there is no

justifiable reason for not enshrining the political commitment to negotiate self-government in the Constitution.

The other concerns that we have in the agreement are related to 35.01(2), which does not specifically deal with the negotiations on a community or regional basis. We have serious concerns as Inuit living under provincial jurisdiction regarding 35.01(2)(b). It gives the provinces veto power, and we feel it alters Section 91.24. With these concerns, we feel that when the provincial legislatures have the luxury to go back to their legislatures and think about whether they are going to in fact approve an amendment -- I think when there are such serious concerns and serious implications for our people, we cannot be pressured into making an agreement such as this in a matter of hours. This is what Zebeedee said. We need time to go back to our people and discuss the implications so that they can make an informed decision. Thank you, Mr. Prime Minister.

THE CHAIRMAN: Thank you, Mary and Zebeedee.

As agreed, Zebeedee, we will readily acknowledge on behalf of our colleagues that it would be fair that you have the opportunity of going back and consulting with your principals and your colleagues. I would think that a two-month delay would not be abusive at all in the circumstances. If that is okay, we will work that out in the mechanisms of consultation here.

I will move on now to the AFN.

MR. GEORGES ERASMUS (Northern Vice-Chief, Yukon and Northwest Territories, Assembly of First Nations): Mr. Prime Minister, we just want to elaborate on why the



Assembly of First Nations cannot accept the present proposal.

You made a couple of points earlier that we would like to react to.

We are not in any way saying that there is no sincerity. We would like the Canadian public to be aware that we acknowledge that fact. We are aware that there has been significant movement. With genuine concern, some provinces have agreed to this but still have some concerns down deep, I suspect. That is definitely movement forward.

This proposal has not changed very much since Prime Minister Trudeau put it before us a year ago. What has changed is the amount of provinces that are prepared to live with such a proposal. I would say that if the Premier for Alberta agreed with it, he would have absolutely nothing to worry about. He would have total control, and he would have veto power over any self-government of Aboriginal Peoples in Alberta. So, he has no concerns. The Minister of Justice is absolutely correct. The Assembly of First Nations completely concurs with the federal government's understanding of the amendment. We would be agreeing to an entrenchment of a principle. We would not be putting rights into the Constitution. The rights would eventually flow if agreements were reached.

In the original federal proposal that has been circulated around for a number of days, there was a Constitutional commitment to negotiate. That has been taken out. Legally, that was the only section of the amendment that was enforceable. No right of self-government would have been enforceable until after negotiated agreements. The problem we have with that is



that we believe very sincerely that our right to self-government is now recognized in the original clause that the Premiers and the federal government agreed to during patriation of the Constitution. We cannot now agree to reduce that right to a principle.

Further, we have very serious problems with there being only one way in which agreements on self-government could be reached, and that is with the concurrence of the provinces in which the Native Peoples would be residing. We want the option in an amendment that we would support or bilateral agreements that Constitutionally recognize self-government, at least in those areas that fall very clearly under the jurisdiction of either the federal government or the provinces, be as it may that the First Nation or the Aboriginal group wants to negotiate with either party alone.

The way we read and understand the present amendment is that even if we had a reluctant province and we had the federal government prepared to go ahead in an area of jurisdiction in which only the federal government had -- say offshore off B.C. -- the Province of B.C. could still veto this agreement. We do not see any need for that at all. There is no question that we are talking about government within Canada. We do not want that to be left as something that we are concerned about.

Finally, I guess the Prime Minister asked us whether or not we were prepared to shoulder the burden or responsibility of making it very clear that we do not accept the agreement the way it is. We have absolutely no problems with that. We will be able to sleep very well tonight, and we will be able to go to our Assembly as soon as we are able to

hold one and explain to our people very clearly why this falls short of what we want.

Further, I would like to say that if the federal government is prepared to consider six weeks before final decisions by some of the parties, I would suggest that we possibly leave open the possibility for further amendments. When the Assembly of First Nations came to this conference, we were aware of the general drift of the federal proposal. We stated that we were in support with the direction of the proposal that came from the federal government. The tone that we thought was coming out was the possibility of the recognition of self-government in the Constitution. We listened to the speeches from the Prime Minister, and it was under, we thought, duress from western provinces that a clearer declaration on self-government was not in the Constitution. We thought the federal government was taking a position that was less than what it would like to take, a position that was closer to something like that which came from New Brunswick a number of times, which clearly would be that the rights of the Aboriginal Peoples would be in the Constitution and the way they would be implemented would be through regional negotiations.

We came here hoping to build on the compromise position that the federal government first put here. What has happened is that, to get agreement of enough parties to amend the Constitution, even the original federal proposal has been altered. As Mary said, no one in the country would love more than the Native Peoples to have self-government very clearly in the Constitution. Whatever we do when the parties

walk out of here, do not say that we are not sincere. Do not say that we are not serious, because we are deathly serious. We are amending the Constitution. We know it is the supreme law of Canada, and we know how important that is. As long as we have the possibility to put a right in the Constitution rather than a principle, we are going to fight for that right.

I must say that I believe that the Prime Minister has enough influence that that influence can be used on the provinces rather than on the Native Peoples to enhance the proposal rather than to reduce the proposal and have those parties here who feel that they have very little in this country agreeing to a principle and taking a deep dive into the dark based on commitments that are not Constitutional. I think it is possible for us, with further work on this, to enhance the proposal to make it very clear that we have the right of self-government in the Constitution. That is what we would like the Prime Minister to assist us in getting. If we are going to be allowed the possibility of some time on this, do not close the door to improvements to the proposal.

My colleague to my left would like to make a few statements. Thank you.

THE CHAIRMAN: I think we have agreed, Colleagues, in fairness, that there should be one spokesman. I don't mean to cut anyone off, but there should be one spokesman per group. I think we have had that privilege, and I thank you all for it.

Here is where we are, as I see it, at the end of the day. We have heard from the leadership of the various organizations unless someone has something brand new to say. If there is a new element to be introduced, please go ahead, Mr. Mathias.

MR. JOE MATHIAS (Assembly of First Nations):

Thank you, Mr. Prime Minister, for your kind indulgence. I will try to make my comments very brief.

I have to make these statements because the Aboriginal Peoples across this country must understand very clearly why the Assembly of First Nations is making its position today with respect to your proposed amendment to the Canadian Constitution.

Our Indian constituency, our Indian public is watching across the land, and we hope to articulate our position not only to this table here, but for our constituency across the country.

In your own words, Mr. Prime Minister, you were asking the Assembly of First Nations to accept an imperfect document in order to perfect our inherent right to self-government. The concern that we are having is the manner in which the amendment was worded. What should be very clear to the people of the country is that what you are proposing to the Assembly of First Nations is this: You are in reality not entrenching the inherent right to self-government. What you are entrenching through this proposal is a non-binding, non-enforceable, non-justiciable principle that is subject to agreement.



Assuming agreements take place between the Province of British Columbia and Aboriginal Peoples in British Columbia, that is the first step that is of a concern to us; the commitment to negotiate. Secondly, if agreements are reached and concluded, that is of concern to us. Even if those agreements are completed and concluded with respect to a range of subjects on self-government for Aboriginal Peoples, a declaration must be got. A declaration from whom, the Province of British Columbia? If the declaration is not incorporated in the self-government agreement, then it does not create matters of self-government.

Assuming we got by that stage, where a declaration is got, say, from a provincial government, we now must get approval from the Parliament of Canada, and in British Columbia, approval from the provincial legislature.

Those are serious concerns that the Assembly of First Nations face with respect to your proposal, Mr. Chairman.

When we began this process -- and I would like to reiterate the words of Mr. Georges Erasmus -- the Assembly of First Nations did table our composite amendments, and we did table, yesterday, the very strong position that we are taking at this conference table, and it is this: What we are seeking first of all is the explicit recognition of Aboriginal self-government in the Constitution. We are not seeking a non-binding principle of self-government, a non-justiciable principle. What we are seeking is an immediately enforceable right of Indian self-government. In clear, simple, precise words, that is not subject to agreements to be negotiated and those agreements

receiving a declaration and further approvals by the Parliament of Canada, as well as the provincial legislatures.

We have a problem with that process, Mr. Chairman. The process does not recognize Aboriginal self-government as a substantive right until steps are taken. To us, Mr. Chairman, your proposals represent delegated authority, and we take the view that delegated authority is a poor substitute for Aboriginal self-government. We take the view that your proposal will only amount to delegated authority.

The position we have tried to articulate at the many meetings held regarding this issue is that we do have an inherent and distinct Aboriginal right to self-government. What we are saying is that should be explicitly recognized in the Constitution of Canada. We are saying that Section 35.1 contains the Aboriginal right to self-government; it is already there. We are taking it out and making it explicitly clear. That was our proposal; that is still our proposal; that still will be the proposal next year.

In terms of progress at this session, I guess I can only say that let us behold the turtle. He moves forward when he sticks his neck out. We are very serious in the concerns that we are raising now because we feel that the neck that is out there is our neck. We are asked to say let us take a great jump of faith in agreeing to this proposal; we have serious concern that that great jump may be into the pit of oblivion.

We certainly have no fear to negotiate with the Province of British Columbia on matters of self-government;

indeed, many nations across this country have no fear to negotiate matters of self-government, but first of all, the inherent right of self-government must be explicitly enshrined, then the process procedure, the process clause goes into effect; entrenched clearly first, then negotiated.

We make these statements, Mr. Prime Minister, because they are concerns. We are sensitive to the public view that may be emerging that the only party at the end of this table who was opposed to the amendment was the Assembly of First Nations. We just want to explicitly and clearly state our position so that you understand why your proposals are not acceptable at this time.

It has been said that truth must go through three stages. The first stage is that truth is always ridiculed; the second stage is that truth is always opposed; the third stage is that truth is self-evident. The Assembly of First Nations are saying to you that when we organized ourselves into the Assembly of First Nations and we made our moves, when we told the public and the governments of this country that we had the inherent right to self-government, the governments and the public ridiculed us. We are hearing from the Premiers around this table -- many of the Premiers -- that there is opposition to our inherent right to self-government.

We have gone through the first and second stages of truth: ridicule and opposition. But we will not abandon our position, nor back away, nor will we sleep on our right of self-government, because we sincerely believe that if we do not achieve our point here today, we will do it



at another time so that the truth of what we are saying will become self-evident and clearly and explicitly expressed in the supreme law of the land that we want entrenched an immediately enforceable right to self-government. We do not want delegated authority, nor do we not want a principle that is non-binding unless agreements are being made.

I believe Mr. Crosbie, your Minister of Justice, made the statement yesterday that if there were no agreements in place, then there would be no rights. What happens if negotiations do not take place? What happens if no agreements are put in place? We are still stuck with a non-binding, non-justiciable principle.

Mr. Chairman, our concluding remarks will be made by the National Chief, but I think it was important for us to state to you our position on why your proposal at this point in time is not acceptable.

Thank you, Mr. Chairman.

MR. DAVID AHENAKEW (Assembly of First Nations):  
Mr. Prime Minister, we, too, would like to express our views first and foremost to the Indian First Nations of this country, and secondly to Canadians.

I want to start off by saying, Prime Minister, that we have no place else to go. This is the only country that we have ever had, and this is the only country we will embrace forever.

I referred yesterday to the intense sense of urgency by the First Nations with respect to the challenge and the opportunities presented to all of us by this conference. I outlined the opportunities that lay before us,



that if we were ready to take that challenge, then the opportunities would materialize. Despite our failure to communicate for over 400 years, the First Nations were encouraged that this conference presented an opportunity to begin again.

You, Prime Minister, presented a visionary outline of how this country might commit itself and each of its parts to bringing, at long last, the task of resolving a major piece of unfinished business. The people of the First Nations were instrumental in leading the fight for Constitutional recognition of our rights prior to the process of patriation, which, in itself, was so unacceptable to many of us in this room. The First Nations were at the forefront fighting for a place in this Confederation, acceptable to us, acceptable to us before any adverse arrangements were made.

We gained some minimal recognition and protection. We were given some assurances that our rights would at last or at least not be diminished in the Patriation package.

An eminent and venerated jurist of the British Court of Appeal, Lord Denning, stated in his judgement of our case:

" Let no Parliament do anything to lessen the worth of these guarantees."

Those are his words.

Throughout 1982, the First Nations of this country labored long and hard over the question of whether or not to participate in this process. Many First Nations believed that the process would be dominated by legalistic

posturing intended to frustrate and block the Constitutional recognition of the rightful place of the First Nations in this country.

However, we were assured that this would be the process of political negotiations, a process intended to find that political consensus necessary to lay solid foundations for the future. So, the majority of First Nations agreed to participate through the Assembly of First Nations, which they had created.

Throughout the 1983 and the 1984 conferences and now in this 1985 conference, First Nations have become increasingly frustrated and disappointed with a degeneration of the process into one of legalistic maneuvering by some of the participants, rather than a process which would build on political consensus. The process has clearly become dominated by legalese, intended to protect the status quo.

There appears to be little political will for change acceptable to the First Nations.

When we get away from this floor into the back rooms and the upstairs rooms, away from the television cameras, what appear to be acceptable statements on this floor often turn into unacceptable legalese. So, what is the political will about? Surely in this process it has to be about the vision, courage and commitment required to bring about real change. The political process was, according to our understanding, intended to change the nature of Canada-First Nations relationship.

We agreed to try to assist Canada, and we agree now, in the task of removing the last vestiges of colonialism

in this country. For those of you who watched the CBC Journal program last night on the assessment of the Alaska Native Land Claims settlement, you will recall that the essential message was political control by indigenous peoples and the mechanisms to enforce that political control are essential in any settlement of Indian or Native claims. In Alaska, the Native people received money and some land. Their rights were extinguished, in exchange. And there was no provision for self-government, that settlement has created more problems, many more problems than it has solved.

There are lessons in the 15 year assessment of the land claims settlement. For the First Nations, the essential lesson of the Alaska settlement reinforces what I have called our bottom line position. I repeat one more time: We must have unqualified Constitutional recognition of our right to self-government. We are not asking something that is not already ours and always has been ours. We are not asking the provinces or anybody else, for that matter, to give us anything because they have nothing to give us. All we have to do is to restore what has been taken away.

I want to conclude, Prime Minister, by saying to you that our situation in our homelands and Indian lands is shameful; it is sad. It seems to me that we cannot really do anything at this forum to resolve that. We will have to take a very critical and thorough review of the First Ministers' Conference process. We will be considering the age-old relationship between the First Nations and the federal government, the bilateral relationship, which was created by the Proclamation by this Constitution and by Treaties and



by other arrangements.

Mr. Prime Minister we now send a signal to you that that special relationship as a result of our special status will be coming to your office and the offices of your government. I want to thank you again, Prime Minister, for the noble effort, for the strength that you displayed and demonstrated throughout this conference in trying to alleviate or set the record straight so that the foundation of this country becomes accurate; that foundation is the First Nations.

Thank you very much.

THE CHAIRMAN: Thank you, Chief. We are now well out of time. I just want to take one second to summarize.

We have, on the substance ...

Nous avons, de la part de certains intervenants, une approbation pour le contenu de la résolution.

On the part of the PTNA there seems to be approval; the two Metis groups have been approving of the federal government position or the conference position; Mr. Nungak, on behalf of his group, asked for time for appropriate consultation to take place with his people back home; and then we have had the refusal -- or I think I should say, David, more accurately, the rejection -- of the notion by the Assembly of First Nations. Some groups in support; some groups seeking a little more time; others in disagreement. Seven Premiers ready to sustain a Constitutional resolution to entrench some very fundamental rights for the Aboriginal Peoples.



It is a poignant occasion where I hope we are all doing the right thing. We know how difficult constitutional unanimity and progress are in this country.

Je sais que je parle pour mes collègues de toutes les provinces, du Québec et d'ailleurs.

Ce n'est pas dans mes traditions ni ce n'est pas dans nos moeurs que de vouloir imposer un règlement, même lorsque nous avons devant nous, pour la première fois, si je ne m'abuse, l'acceptation de la part d'au moins sept Premiers ministres et d'autres qui se disent heureux de vouloir au moins l'étudier davantage, ce qui est le cas de monsieur Lougheed, qui ne demande plus que l'occasion de le revoir.

For these reasons, I think, Chief, that I am going to reflect upon what Zebeedee said, and perhaps take advantage of the period of consultation that he was seeking with regard to his own people. It might not be unhelpful if we use that same period of time for ourselves.

Let me explain. There was a ministerial conference set out, I think, John, for some time in May. We could hold it in the last week of May here in Ottawa at the ministerial level. I think it might give us time to do a number of things. It would give, for example, Peter Lougheed the time to reflect upon some of the legitimate questions that he has raised. John Buchanan, I know, has been mulling over some other ways in which he might be helpful, and I think we might all perhaps seek clarification on some of the positions that we have taken, because I think it would do damage to the process itself if we failed because of a misunderstanding to resolve or to possibly resolve something of great substance on behalf of the Aboriginal Peoples.

I note the support only for the record; I note the support of the PTNA, of both Metis groups, the request for consultation by Zebeedee Nungak, and I note the rejection by the AFN. I note, as well, the on-the-record statements by the Premiers desirous of moving the process ahead.

I regret that we were not able to resolve completely today an historic problem, but we have made progress, substantial progress in the long and the challenging work of righting old wrongs. I do not apologize -- nor should anybody -- I do not apologize for trying to do the right thing.

It is a sensitive and an historic burden in this country that we must faithfully and effectively discharge.

So, I want to recommend to you that we hold in abeyance definitive decisions pending the ministerial meeting which shall take place in this hall in the fourth week of May. I know that that will allow Zebeedee for the consultations, and it will allow Peter for his consultations.

I want to not leave without thanking all of you for your efforts. I want to thank the Premiers and their delegations; my federal colleagues, David Crombie and John Crosbie; it must have been difficult on John being able to speak so infrequently, but he did it so well; and to the leadership of the Native groups who approached the problem with serenity and with good faith. I want to say thank you to all of you. You have the assurance of the federal government that I am undeterred by the lack of definitive resolution today. I will be at it with my colleagues in a very firm and ongoing manner because I think we can find that appropriate degree of justice for all Canadians. We can do honour to our obligations to the Aboriginal Peoples.

A vous tous, mes remerciements.

Thank you all very much.

---Whereupon the Conference adjourned at 17h45.





FIRST MINISTERS' CONFERENCE ON  
ABORIGINAL CONSTITUTIONAL MATTERS  
APRIL 2 - 3, 1985

Agenda

1. Self-Government for the  
Aboriginal Peoples
2. Sexual Equality Rights
3. Mandate for Continued Discussions
4. Nature of an Accord



FIRST MINISTERS' CONFERENCE ON  
ABORIGINAL CONSTITUTIONAL MATTERS

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CONFÉRENCE DES PREMIERS MINISTRES  
SUR LES QUESTIONS  
CONSTITUTIONNELLES INTÉRESSANT LES AUTOCHTONES

April 2-3, 1985

Les 2 et 3 avril 1985

OTTAWA

List of First Ministers, Ministers and Heads of Delegations  
Liste des Premiers ministres, ministres et Chefs de Délégations

CANADA

The Right Hon. Brian Mulroney  
Prime Minister/Premier ministre

CHAIRMAN/PRESIDENT

The Hon. Flora MacDonald  
Minister of Employment and Immigration/  
Ministre de l'Emploi et de l'Immigration

The Hon. Erik H. Nielsen  
Deputy Prime Minister and  
Minister of National Defence/  
Vice-premier ministre et  
Ministre de la Défense nationale

The Hon. John C. Crosbie  
Minister of Justice and Attorney General of Canada/  
Ministre de la Justice et Procureur général du Canada

The Hon. Donald F. Mazankowski  
Minister of Transport/  
Ministre des Transports

The Hon. Jake Epp  
Minister of National Health and Welfare/  
Ministre de la Santé et du Bien-être social

The Hon. John A. Fraser  
Minister of Fisheries and Oceans/  
Ministre des Pêches et des Océans

The Hon. Sinclair McKnight Stevens  
Minister of Regional Industrial Expansion/  
Ministre de l'Expansion industrielle régionale

The Hon. David E. Crombie  
Minister of Indian Affairs and Northern Development/  
Ministre des Affaires indiennes et du Nord

The Hon. Michael Wilson  
Minister of Finance/Ministre des Finances

The Hon. William McKnight  
Minister of Labour/Ministre du Travail

The Hon. Walter F. McLean  
Secretary of State of Canada/Secrétaire d'Etat du Canada

L'Honorable André Bissonnette  
Ministre d'Etat (Petites entreprises)/  
Minister of State (Small Businesses)

L'Honorable Benoît Bouchard  
Ministre d'Etat (Transports)/  
Minister of State (Transport)

L'Honorable Andrée Champagne  
Ministre d'Etat (Jeunesse)/  
Minister of State (Youth)

Len Gustafson  
Parliamentary Secretary to the Prime Minister/  
Secrétaire parlementaire au Premier ministre

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Premier and Minister of  
Intergovernmental Affairs

The Honourable Robert Welch  
Deputy Premier and Attorney General

The Honourable Ernie Eves  
Provincial Secretary for Resources Development

#### QUEBEC

Monsieur René Lévesque  
Premier ministre du Québec

Monsieur Pierre-Marc Johnson  
Ministre de la Justice et ministre  
délégué aux Affaires intergouvernementales canadiennes et

Monsieur Élie Fallu  
Ministre délégué aux Relations avec les citoyens



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The Honourable Edmund Morris  
Minister of Social Services and  
Minister of Aboriginal Affairs

The Honourable Ronald C. Giffin  
Attorney General and  
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Premier of Prince Edward Island

The Honourable Fred Driscoll  
Minister of Energy and Forestry and  
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The Honourable J. Gary Lane  
Attorney General and Minister of Justice

The Honourable Sid Dutchak  
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John Thompson  
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Government Leader

The Honourable Andy Philipsen  
Minister of Justice

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Government Leader

The Honourable Dennis Patterson  
Minister of Aboriginal Rights  
and Constitutional Development

The Honourable Nellie Cournoyea  
Minister of Renewable Resources

The Honourable Bruce McLaughlin  
Minister of Health and Social Services

The Honourable Gordon Wray  
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and Tourism

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Member of the Legislative Assembly

The Honourable Michael Ballantyne  
Member of the Legislative Assembly

The Honourable Arnold McCallum  
Member of the Legislative Assembly

The Honourable Eliza Lawrence  
Member of the Legislative Assembly

The Honourable Tom Butters  
Minister of Finance



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**L'ASSEMBLÉE DES PREMIÈRES NATIONS**

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National Chief

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Northern Vice-Chief - Yukon and  
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Chairman of the Constitution Working Group and  
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**LE COMITÉ INUIT SUR LES AFFAIRES NATIONALES**

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Co-chairperson

Zebedee Nungak  
Co-chairperson

**MÉTIS NATIONAL COUNCIL**  
**RALLIEMENT NATIONAL DES MÉTIS**

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**SECRÉTARIAT DES CONFÉRENCES INTERGOUVERNEMENTALES CANADIENNES**

Stuart MacKinnon  
Secretary / Secrétaire



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